University of Alberta

A Liberal Theory of Virtue and the Good:
The Moral and Political Thought of T.H. Green

by

Darin Roy Nesbitt ©

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Doctor of Philosophy

Department of Political Science

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This dissertation is dedicated to my parents:
Sheila J. Nesbitt and James E. Nesbitt.

Abstract

This dissertation critically examines the moral and political philosophy of T.H. Green in order to assess his reconceptualization of individuality, freedom, and rights within a common good liberal framework. The objective is to expand our understanding of Green's version of liberalism. There are four main themes: (1) Green's conception of individuality is appraised and upheld as a substitute for liberal individualism; (2) the role and place of values, virtues, and a common good in his moral philosophy are explored and defended within a liberal context; (3) Green's concept of political obligation, one based on a common good, is reviewed in order to demonstrate the liberal character of his approach; and (4) an attempt is made to extract from Green's texts a consistent theory of individual rights. The dissertation supports Green's revised conception of political obligation and his general theory of individual rights revolving around a liberal common good.

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Introduction

This dissertation examines the implications for liberalism of T.H. Green's most recognizable and significant contribution to political philosophy: his conception of negative and positive freedom or liberty.[1] The principal implication was an expansion of the concept of freedom from the negative, Hobbesian-inspired model of self-activated subjects considered free just insofar as their movements are unimpeded by external forces or obstacles (or unfree as those movements are effectively impeded or prevented) to one or a combination of its positive conceptions.[2] This dissertation has one primary argument: I will defend Green's general case for a theory of individual rights predicated on his conception of freedom as a first-order human good--and as representing a common good--and that there is and should be a heavy burden of justification both on those who propose interferences with liberty and those who make liberty-claims. Like all contested human goods, liberty requires justification; and all claims to expand or reduce individual liberty in Green's account must be consistent with what I will call his "common good criterion." I maintain that his "common good liberalism" upholds traditional liberal concerns about the nature, extent, and limits of political power, and what animates this dissertation is Green's novel and humane vision of liberalism.

Green's moral and political philosophy taken together have two leading claims: (1) a system of laws is worthy of obedience if it expresses a common good, and (2) individual rights must be justified with reference to this common good. Green links freedom and individual rights with human goods beyond the minimal yet fundamental good of security against the arbitrary acts of others. Liberty, he maintains, cannot simply mean freedom (or rights) **from** the effects of actions of others but must also include freedom (or rights) **to** goods other than freedom itself. If freedom means more than the absence of external forces acting upon an agent's movements, then the subsequent question is, freedom to what end(s)? Green argues that the human good of freedom is distinct but not separate from other goods such as justice and equality. While freedom as a basic good can and should be independently justified, where freedom is intimately related to other human goods it must be recognised in that manner. Both claims are part of Green's general thought. He discerned a development in the negative (or minimalist) conception of freedom originating with Hobbes's argument that subjects or citizens are at liberty just insofar as the sovereign has not promulgated laws or commands requiring or forbidding modes of conduct (freedom thus meaning the absence of rules) to Mill's that individuals are free just insofar as their "permanent interests" as "progressive beings" are neither harmed nor injured (freedom thus meaning the specification of acts harmful or injurious to oneself and others). The concept of liberty shifted from the province of external actions (Hobbes) to that of interests (Mill) and thus the good of liberty became included in the realm of public justification, minimally as a good that requires reflective justification (good reasons) and potentially a public good capable of being exchanged for or overridden by other human goods. I believe Green recognized this development--even if he nowhere expressed it in such terms--and his moral and political works should be interpreted in such a manner.

Freedom for Green though remains the basic and primary human good, a position confirmed by his commitment to individual rights. Yet the implication of Green's dual conception of liberty is that a compelling case for both liberty and individual rights cannot be established in the absence of a philosophical analysis of individual interests, wants, needs, and desires, and of the faculties or capacities of reason, judgment, motive, and will. The reconceptualization of liberty by Green affects his analysis of (a) liberal individuality, (b) its values and goods, and (c) the purpose and objectives of the liberal state. His "common good liberalism" supports individuality, shapes and circumscribes both private and public goods, and provides limits to state action that most people could accept as constitutive of a free society. Green's emphasis on a common good is one of the most unique aspects of his liberal political philosophy and one worthy of reexamination in light of recent communitarian responses to liberal political philosophy.

This dissertation focuses on Green's moral and political philosophy sequentially. The first section provides a chapter entitled "T.H. Green and the Liberal Tradition" which contextualizes Green in the history of political philosophy and in the liberal tradition. The topics to be examined there include Green's life and times, his most significant scholarly works, his place in the liberal tradition, and why his liberalism is relevant to contemporary liberal political theory. The main argument of the first chapter is that an explication of the common good is one of the principal challenges confronting contemporary liberalism.

The second section (chapters 2-3) focuses on Green's moral philosophy, principally the Prolegomena to Ethics (hereafter the Prolegomena). The second chapter, entitled "The Integrated Liberal Self: Green's Conception of Liberal Individuality," tackles the issue of the constitution and character of the liberal self as envisioned by Green in his moral philosophy, assesses his revised liberal self, and defends the kind of individualism he upholds. The third chapter, "Individuality and the Good: The Common Good in Green's Moral Philosophy," examines the role and place in Green's moral theory of values and virtues in social life, and appraises his claim that individuals are animated by a common, social good. Both chapters together support Green's argument that the conception of the "person" in liberal theory is not a proper subject of individual rights, that the proper conception is one of a purposive, willing agent in pursuit of consistent and enduring individual life-plans.

The third section (chapters 4-5) deals with his political philosophy, chiefly the Lectures on the Principles of Political Obligation (hereafter the Lectures). The fourth chapter, "Green's Rights-Based Conception of the State: The Limits of State Action," examines Green's justificatory principles for the use of power and force for political ends. His examination of sovereignty is a crucial part of his political theory, for his various principles of state action highlight the liberal character of his political philosophy and allow us to understand his conception of the liberal common good. Finally, the fifth chapter, "Liberties, Entitlements, and Common Purposes: The Elements of Green's Theory of Rights," explains Green's theory of individual rights and its connection with a common, social good. These last two chapters attempt to systematize Green's general argument that a compelling theory of individual rights is one based upon a liberal common good.

Endnotes

1. Neither Green nor I distinguish in any relevant way the terms "liberty" and "freedom." Green throughout his works treats liberty and freedom as interchangeable terms, and I choose throughout this dissertation to do the same.

2. Richard E. Flathman usefully distinguishes freedom into five types: (1) freedom and unfreedom of movement, (2) freedom and unfreedom of action, (3) freedom and unfreedom of autonomy and heteronomy, (4) communal freedom or unfreedom, and (5) fully virtuous freedom and unfreedom. Cf. his The Philosophy and Politics of Freedom (Chicago: The University of Chicago Press, 1987), p.322.

Part One

Chapter One:

T.H. Green and the Liberal Tradition

1.1. Green and the Liberal Tradition

This chapter will examine Green's place in the liberal tradition, the doctrinal alterations he effected, and his relevance to contemporary liberal theory, and accordingly is a mixture of biography and exposition. Liberalism underwent a transformation in the late 19th century as a result of Green's idealist moral and political philosophy.[1] By both criticism and revision of existing liberal philosophy in his Prolegomena and Lectures Green reformulated the traditional liberal view of the relationship between the individual and the state. While Green today is regarded as a liberal theorist, he also anticipated and addressed many of the criticisms of liberalism by recent communitarians. The analysis of topics relating to important concerns of liberals--e.g., the importance of human freedom; the place of virtue; the role of values in and ultimate goods or ends of the liberal community--was offered by Green well before communitarians[2] and civic republicans[3] of this century condemned liberalism as incapable in principle of addressing such questions.[4] Green's intention was to reform and enhance liberalism by reassessing the meaning of liberal freedom and thereby importing into the liberal framework substantive principles of political morality. By assessing his success in reconciling liberalism with virtue and the good we glimpse into the possibility of liberalism coming to terms with its communitarian critics.

While it is a commonly-held belief that contemporary liberalism is a procedural, not substantive, philosophy, there are two ways to interpret this view. The emphasis on "procedures" could refer to the governance of individuals by a consistent application of principles, rules, and laws that apply to all and are capable of being appealed to by each and every individual. It could also refer to a less-inspiring view of liberal politics: that political liberalism is simply a means to the realization of **laissez-faire** economics, that political liberty is secondary to economic liberty, and that what underlies this view is a conception of individuals as maximizers of natural wants and appetites who efficiently pursue such instrumental ends.[5] It is this second understanding of liberalism as procedural or instrumental, particularly the presumption that individuals are pursuers of appetites and aversions, that motivated Green's revision of liberalism. He challenges liberalism by unearthing a liberal self ultimately at odds with the end towards which he believes liberal politics leads. Green believed in a developmental and not static liberal theory that prescribes common and shared ideals predicated on the absolute worth and dignity of persons. Liberal politics, its theory and practice, is for Green a politics of the common good, an explication of shared values, virtues, and goods, and the disclosure and application of a common good is one of the principal challenges confronting contemporary liberal political philosophy.

The chapter will proceed as follows. Section 1.2. will provide a biographical sketch of Green, of his education (including the key debates and issues that captured his attention), and of his interest and participation in political reform, various temperance movements, and public education. Section 1.3. examines his major scholarly works, which philosophical developments and movements Green considered worthy of analysis, and the main ideas and arguments we can distil from his moral and political philosophy. Section 1.4. surveys some selected literature on Green's place in the liberal tradition, what he contributed to liberal political philosophy, and finally why both his philosophical place in the tradition is secure and his theoretical alterations of some basic liberal concepts are relevant today. Section 1.5. concludes by exploring the communitarian challenge to liberalism, determining how and in what manner communitarians have been effective, insightful, and helpful critics, and offers what is hoped to be an improved comprehension of alternative understandings of liberalism.

1.2. Life and Times

Green was born in 1836 in Birkin, Yorkshire, and died in 1882, the result of a congenital heart condition.[6] Green's mother died a year after his birth, but the relationship with his father, the Reverend Valentine Green, was strong. Little is known about his mother, two sisters, and older brother, although the latter we know would become a chronic alcoholic. Reverend Green educated Thomas until the age of fourteen when the latter left home to attend Rugby. He was neither proficient in athletics nor an academic prodigy, and schoolmates considered Green to be somewhat aloof. While judgments by instructors included "slow and easily puzzled," "inert," "lacking ambition," and "constitutionally indolent," these assessments must be taken with a pinch of salt. The amount of time and energy devoted by Green to academic and public life--it is said that his devotion to public service was the real cause of his death--indicates that indifference and indolence were not flaws of his character.

It would take the experience of university life and the prodding of an Oxford don, Benjamin Jowett, to bring out Green's academic potential. In 1855 he entered Balliol, eagerly awaiting the excellence of teaching at Oxford and the frugal living it engendered. While the quality of instruction impressed Green, the classical orientation of the Oxford curriculum held little attraction for the youthful Green. Despite the growing interest in Mill (his Logic and other writings were widely read although not officially recognized) the teaching of philosophy at Oxford centred around Aristotle, although Plato's works were added through the influence of Jowett and Mark Pattison. There was also, again the result of Jowett and Pattison, some attention being devoted to the

German history of philosophy, primarily to Hegel. At a personal level, Green was stung by a sense of failure when he obtained a second class in "moderations." However, encouraged by Jowett and a private tutor named Charles Parker, Green worked hard for a year and a half and was rewarded in 1859 with a first class in **literae humaniores**. In 1860 Green was elected a fellow of Balliol College and lectured on ancient and modern history at Balliol, but lost the lecturing position when W.L. Newman returned a year later to the post. By 1863 he was delivering lectures on Aristotle's Ethics and supplementing his irregular work for the university by taking private pupils.

Green's principal interest at the time he was a tutor was in the exposition and criticism of seventeenth- and eighteenth-century philosophy. This period thus appears to have been spent in large part forming his critical views of Locke and Hume. The basis for Green's evolving dissatisfaction with Locke and Hume was his rejuvenated interest in classical Greek thought as well as his concentration on various continental theorists whom he believed were prematurely dismissed. While he was somewhat uncomfortable teaching the Nichomachean Ethics, Aristotle's theory of life captured Green's attention. He agrees with Aristotle that there is a higher or rational nature in man that is behind both the impulse to knowledge and to society, and promoting our intellectual and social nature was the main lesson Green drew from his work with Aristotle. Other writers who aroused his curiosity included Wordsworth, Carlyle, Maurice, Kant, Rousseau, Hegel, and Fichte. Green distilled from these various sources the idea of a divine life (or "energy" or "cause" in Green's terms) or spirit (or "common good") in the world which made nature intelligible, gave unity to history, embodied itself in concrete form in states and churches, and inspired individuals of genius. States, churches and other social institutions such as the family revealed for Green what is highest in humanity.

During the time Green was a tutor, he found himself in rather poor health and a little dismayed with Oxford life. He was offered the editorship of the Times of India, but objections by his family and Jowett coupled with the declining state of his health led him to reject the position. It would seem that Green even considered joining the clergy, but he could not in the end overcome his opposition to the Anglican hierarchy. Around this time Green failed to get his brother to stop drinking, and a depression likely occasioned by his brother's death led Green to spend a large portion of 1862-1863 on vacation in Switzerland and Germany. Upon return, Green unsuccessfully applied for the chair of moral philosophy at the University of St. Andrews when the chair became vacant by the death of J.F. Ferrier. In 1867 he was again an unsuccessful candidate for the Waynflete Professorship of moral and metaphysical philosophy, although in 1872 he was reelected to a fellowship at Balliol. In January 1871 Green married Charlotte Symonds, the sister of one of Green's oldest friends, John Addington Symonds. Even though the marriage coincided with a steady deterioration of Thomas's physical health, Mrs. Green was by all accounts a positive influence on his personal, social, and professional life. Green's tutorial self-sacrifices eventually reaped dividends, for the crown of his academic achievements occurred when he was appointed as White's Professor of Moral Philosophy in 1878.

The period beginning with Green's arrival as a young scholar at Oxford was turbulent. The question that animated many, and Green too, was how people of good-will with reasonable natures could find rational grounds in support of the existence of God. This question took on practical importance as a result of a persistent chasm in the Church of England. The doctrinal division between the conservative High Church Party and the progressive Broad Church Party perplexed many of the young scholars at Oxford. Both preached the virtues of justice and charity, but the High Church Party denied that any substantive reward for such behaviour is of this world. Such reasoning seemed both paradoxical and anachronistic to a generation such as Green's which anticipated rewards both intrinsic and extrinsic for good citizenship. Green's sympathies were with the Broad Church movement, and his avowed purpose was to bring together the good-will he perceived in most men and women into a defence of civic activism.[7]

Green also faced another issue, only this one was related specifically to his academic work. For his more articulate contemporaries, the conflict between the doubt raised by science and scholarship as against the will to believe was of major concern. Green believed that he could in his own modest way quell the conflict between the truths of science and the truths of religion by providing in his philosophy a reasonable foundation for belief. Such reconciliatory conviction reified in philosophy could perhaps form a bridge between orthodox and unorthodox evangelicals and between scientists and the clergy. It would mean that the tension between Christianity viewed on the one hand as a historical, dogmatic religion and on the other as undogmatic theology could be resolved for those of genuine good faith. This would have the effect of accentuating the importance of addressing questions raised by science and more pressing practical matters relating to social conditions. A reconciliation would also mean that the expanding scholarly gulf between science and faith might be recast in terms which would show a more intimate relationship between the two than was recognized. The immediate background is of course certain doctrinal accretions of Darwin's evolutionary theory, and here Green felt that he could appeal to the many who remained unconvinced that humans are simply clever apes.

Green's public activities can be separated into three general areas: political reform, temperance, and education. Green's first appearance on a political platform occurred in 1867 when the Oxford Reform League held a meeting to consider various measures by the Tory government of the day. Both Green, an avowed Liberal, and the League agreed that continued agitation for political reform was necessary. Somewhat surprisingly Green, unlike Mill, displayed little interest in national politics. In one of his either less charitable or more candid moods, Green stated that the House of Commons was in the hands of a corrupt aristocracy, the result of which meant that in politics "...the conflict is no longer between the house of commons and the crown or the lords, but between the people and the house of commons."[8] The basis for the conflict was the conduct of the aristocracy in political office; its "flunkeyism," as Green put it, was corrupting the commercial classes by corralling them with offices and titles. Green however had a less bombastic and more compelling reason for directing his attention to local politics. In his day most public goods and services in Britain were provided at the town level and funded by local governments. As a result, the power and influence of local leaders and their policies over ordinary citizens was much more pronounced than any policy, short of a declaration of war, of the national government. Green had a point then when he would dismiss the presumed liberating and ennobling effects of universal suffrage when

Westminster at the time played such a comparatively small role in day-to-day life.[9]

Green's interest in local affairs and his brother's alcoholism account for his involvement in temperance movements.[10] Green joined the United Kingdom Alliance in 1875, and in 1876 became president of the Oxford Band of Hope Temperance Union. While there is a temptation to envision those like Green active in the various temperance associations as well-intentioned but busy-bodied prigs, such a picture is a disservice to the gravity of the problem of alcohol toward the end of the 19th century. It is difficult enough in the best of times to mobilize support for social change, and pressing local issues such as working conditions, education, and sanitation could not be addressed properly if the citizenry by and large was perpetually inebriated. Green was sober-minded enough to see that the working classes were harmed the most by the effects of alcohol, and commercial interests will exploit this weakness. His proposals regarding alcohol were sensible and moderate such as limiting the number of hours taverns could provide their product and reminding proprietors, alcohol distributors, and local and national political representatives to accept some responsibility for the destructive effects of liquor on communities.

Green had no simplistic understanding of the various social ills of his day, and his appreciation of the complex causes of social disorder can be seen in his views on education. Just as previous decades were periods of reform in British politics, the 1860s were in education. In 1864 Green was appointed as an assistant commissioner to a royal commission established to enquire into education in England and Wales. Green's mandate was to inspect personally some of the districts under scrutiny by assessing young students by examination, soliciting the views of parents on education, and determining what kind of demands in general were placed on the educational system and how or even whether these demands were being met.[11] One of Green's concerns was that middle and higher education were bound by a class structure, a limitation that had to be countered by a policy in favour of a broader-based pool of applicants from the poor and dissenting classes. The expansion of educational opportunities was one way to resolve so-called systemic barriers to education, but according to Green the various pressures parents exerted on children and schools also required reappraisal. The commercial classes, for example, desired a curriculum that would assist the development of student's commercial skills; farmers, on the other hand, kept their children at home too long with the result that they were unprepared for the rigours of the established curriculum. Consequently both the system and its clientele were responsible for the restrictive state of education. Green intimated that any educational reforms would require possibly radical reconsideration of the aims of education on the part of politicians, administrators, teachers, and parents.

It can be seen that in Green's view various forces were at work to undermine the purpose of education in general. Clearly absent was some kind of consensus on the goal of education. Green's objective was clear enough: the "true social leveller" is education, and only by education could the barriers of class and privilege be overcome. He steadfastly believed that some type of non class-based system of education could be established without undermining its worthy aspects. Green was not committed to destroying whatever aristocratic elements were present in the system, but he insisted that the opportunity for education be within reach to those other than in the upper classes. As a delegate for managing the Oxford Local Examinations, Green promoted in 1867 a scheme in which assistance would be offered promising candidates for entrance to Balliol. Several years later, Green again found himself addressing educational issues, although this time over elementary education. He supported a program of the National Education League with its three tenets of compulsory, publicly-funded, and non-sectarian instruction. The emphasis on non-sectarian instruction may be surprising to those familiar with his theological writings, yet Green played an instrumental part at Balliol in abolishing compulsory attendance at the chapel. He unsuccessfully attempted to get on the school board at Oxford in 1871, but succeeded in 1874.

His health began to fail by the mid-point of the decade and Green found it necessary to take an extended holiday and reduce the amount of time devoted to public issues.

1.3. Scholarly Works

Green's most recognizable works are the Prolegomena, the Lectures, an essay entitled "Liberal Legislation and Freedom of Contract," and his remarkably long introductory to the Green and Grose edition of David Hume's Treatise. The Prolegomena and the Lectures were not edited rigorously by Green himself--the result of his early death--and accordingly these books convey a lecture-hall style. The two books in fact comprised a series of lectures he delivered on moral and political topics, eventually edited for publication by friends and colleagues with the assistance of Mrs. Green. "Liberal Legislation" attacked the contractarian conception of liberty and popularized in English minds the now well-acknowledged distinction between negative and positive conceptions of liberty. The introduction to Hume's Treatise is an impressive albeit weighty critical analysis of the doctrines of Locke, Berkeley, and Hume. Less-recognized works by Green dealt with the methodology of psychology,[12] Kant[13] and Aristotle,[14] formal logic,[15] the philosophy of history,[16] the philosophy of religion,[17] and education.[18] The Prolegomena and Lectures are for our purposes the most important of Green's works.

Green begins the Prolegomena by noting the decline in stature of moral philosophy by the end of the 19th century. He tells us that it is a field of "..somewhat equivocal repute..." and those who teach or write upon the subject are "...looked upon with some suspicion." The British tradition of moral inquiry, though, is a tradition in need of a "metaphysic of morals". Moral philosophers must begin explaining why a metaphysics of morals is both possible and necessary. The cause of the hoary status of moral philosophy, in Green's estimation, resulted from the tendency to subsume traditional fields such as moral theory under the physical sciences. This predilection was seen as analogous to attempts to account for the moral faculties by utilizing the naturalistic doctrine of evolution. On the effects of naturalism,

> ...the theory of descent and evolution opens up a vista of possibilities beyond the facts, so far ascertained, of human history, and suggests an enquiry into the antecedents of the moralised man based on other data than the records which he has left himself. Such enquiry, it is thought, will in time give us the means of reducing the moral susceptibilities of man to the rank of ordinary physical facts, parts of one system, and intelligible by the same methods, with all the natural phenomena which we are learning to know. Man will then have his ascertained place in nature, as perhaps the noblest of the animals but an animal still.[19]

Green does not dismiss the possibility that a system of ethics can be constructed along the lines of a natural science. Nor for that matter does he discount a natural history of man based upon the principle of evolution. But he cautions that a philosopher who would attempt to treat the study of ethics as if it were akin to the natural sciences would still be forced to account for what he or she is trying to explain. Such a philosopher will begin an account of ethics by tracing the language of moral injunction to two determining factors: the habit of submission to the commands of a social or political superior (as with Hobbes and Austin), and the edicts dictated by a calculation of the balance of pleasure and pain derived from a particular course of action (as with Bentham and both Mills). These two methods, Green maintains, comprised the dominant **modus operandi** of moral philosophy.

Green's principal objection to the voluntarism of Hobbes, Locke, Hume, and the utilitarianism of Mill is that the self is more than a passive recipient of experiences motivated by natural passions, desires, and interests. The link between these theorists, Green believes, is their view that humans are a product of natural forces and thus can be examined in the same manner as animals or other living organisms. More specifically, their treatment of human behaviour assumed that there is no difference in principle between the behaviour of animate organisms and any other processes in nature, that we can account for the behaviour of animate organisms in the same way as other natural processes by laws relating physical events. Human conscience and obligation, for example, are treated as manifestations of pleasure and pain; actions or inactions are assessed by whether they increase pleasure or diminish pain; and moral sentiment is viewed as derived by some inexplicable quality called sympathy. The proper conception of an active agent, Green suggests, is one that judges or assesses its experiences by standards neither given by nor derivable from any item or element in that experience itself. Moreover, he counters that before we posit mysterious moral qualities such as the capacity to empathize we should "...enquire whether a being that was merely a result of natural forces could form a theory of those forces as explaining himself. We have to return once more to [an] analysis of the conditions of knowledge...."[20] The following, then, is the first question of moral theory that Green sets himself to answer: Can the knowledge of nature be itself a part or product of nature? This is a complex question, and Green's answer will be explained more fully, but here it suffices to note that part of its purpose is to assist us in distinguishing the kinds of issues and concepts that arise in moral philosophy and how they differ from other subject areas not only in philosophy but also the natural sciences.

The Prolegomena is an examination of human needs, desires, and interests and a sustained attack on previous treatments of affective and cognitive states of mind that shaped the dominant conceptions of human agency. Given that one of the purposes of political activity is to fulfil the needs and interests of societies, groups, and individuals, and since political philosophy is in part an inquiry into legitimate and illegitimate political claims, it follows that our conceptions of needs, desires, and interests have political relevance. For Green the question that follows is whether the impressions left by his predecessors' treatment of morals and ethics also weakened their analysis of social and political institutions. We thus find him raising questions that bear on political philosophy in his moral philosophy, e.g., about the results of conceptions of "free will" being subsumed under the influence of the physical sciences. If humans are merely products of natural forces, what sense is there in speaking of either purposive action or free will? He intimates in the Prolegomena that an analysis of political and social phenomena heavily influenced by the models established in the natural sciences places the very study of politics in a precarious position.

Green consequently reexamines the main presuppositions of liberal politics in his Lectures, the purpose of which "...is to consider the moral function or object served by law, or by the system of rights and obligations which the state enforces, and in so doing to discover the true ground or justification for obedience to law."[21] His three objectives are: (a) to state what he considers the true function of law to be, which is, Green asserts, the true ground of our moral duty to obey the law; (b) to examine and criticize contractarianism and utilitarian consequentialism, the chief doctrines of political obligation; and (c) to appraise the chief rights and obligations enforced in civilized states and explore the grounds for their justification. In each stated instance, liberal theory provides truncated justifications for general laws, obligations, and the determination of rights in general.

For Green the value of political institutions is derived from their ability to enable the capacities of will and reason to be realized fully. Civil institutions that encourage the development of will and reason make it possible for individuals to implement ideals through organized activity and the creation of institutions; moreover they enable individuals to realise the faculty of reason, i.e., ideas of self-perfection, by acting as members of a shared way of life in which each contributes to the well-being of the rest. When civil institutions operate in this fashion, we may speak of a "law of nature."[22] Green argues that natural law theorists such as Hobbes and Locke misconceived how political institutions ought to be appraised by utilizing the fiction of a social pact or contract that precedes the formation of such institutions.

For Green, the symbolic social contract was no ordinary metaphor in that it practically had become the paradigmatic political concept. Yet two questions arise if the law of nature, as with Hobbes and Locke, is a feature of the state of nature prior to the formation of political society by contract. First, how could this acknowledgment of obligations arise without a prior recognition by the individual of legitimate claims on the part of others? Second, even if we grant theoretically a pre-political society of individuals capable of recognizing obligations, how would such a society be so markedly different to begin with from a political society? Green's answer is that a political society is presupposed by these natural law theorists by the very act through which obligations are codified, i.e., the contract itself.[23] Once it is recognized that the contract presupposes political activity, then it becomes a poor way to appraise and assess political institutions since, Green holds, obedience to a government derives from a given state's function or end rather than by some fictitious social contract. The contract metaphor thus is misleading and directs attention away from the true end to which obligations can be determined, i.e., whether a state is upholding its objectives.

Green's eager anticipation of rigorously examining an ideal purpose of liberal political life marks the origin of his critique of traditional theories of liberal politics. Green believes that there are immutable rights and demonstrable obligations, but not as formulated by state of nature theorists such as Hobbes, Locke, and Rousseau. There is a system of rights that should be maintained by law, and if we choose to call these rights "natural" that is well and good. Green though discards the notion that there are "natural" rights and obligations antecedent or prior to society. He also rejects, at least as formulated by state of nature theorists, the claim that there exist rights against society. Such a vision of the nature of rights, Green holds, is profoundly anachronistic in that the various conceptions of liberty conceived by state of nature theorists delegitimate by fiat what in instances can amount to appropriate, sensible, and justifiable state action. It is one thing to limit state interference in matters unrelated to its objectives, and quite another thing to argue that the state has no moral end to serve at all, that the state exists only to circumvent violence between individuals.

If the state of nature theorists erred in their various attempts to provide a proper foundation for political obligation, so too did utilitarians. For Green, utilitarianism recognizes no proper vocation for men and women but the attainment of pleasure and the avoidance of pain. The only reason why civil rights should be respected on such terms would be the fear of the consequences of failing to observe them, a conclusion at odds with our ordinary experiences and disturbing in its Hobbesian logic. Green notes, however, that his own theory and utilitarianism do have a negative point in common: utilitarians "...do not seek the ground of actual rights in a prior natural right, but in an end to which the maintenance of the rights contributes."[24] Rights derive from the recognition that certain powers should be granted to men and women; no one can have a right except as a member of a society in which some common good is recognized by the members of the society as their own good. As he explains, "[n]o right is justifiable or should be a right except on the ground that directly or indirectly it serves this purpose. Conversely every power should be a right, i.e. society should secure to the individual every power, that is necessary for realising this capacity."[25]

Green's moral and political thought taken together represent his attempt to provide a better foundation for liberalism by recasting certain key concepts involved in the liberal philosophical edifice. For Green, the internal development in liberalism is one from consent and contract to self-realisation and a common good. It is the idea of a liberal common good that resonates in Green's thought and represents one of his most significant contributions to the body of liberal thinking. The evocation of a common good, however, also represents a departure for liberal methodology, and appears to substantiate the views of those who assert that Green is a critic of liberalism. This view is nonetheless incorrect if it is taken to mean, as some apparently have construed it, that Green saw himself as the architect of a philosophy in opposition to liberal views. It is to the topic of his place in the liberal tradition to which we now turn.

1.4. Green's Place in the Liberal Tradition: Friend or Foe?

There are two main themes in the debate over Green's place in the liberal tradition. While the common belief is that J.S. Mill was the seminal force behind the new direction liberalism underwent in the later stages of the 19th century, Green's contribution to this development is firmly established. Here Green is viewed as the progenitor of the "new liberalism" based on interventionist social policy and welfarism. This sentiment constitutes the first theme concerning Green and liberalism. The second is whether Green can be considered a liberal because of the alterations he made in liberal doctrine. Here we are confronted with two general questions: (1) what weaknesses did Green discern in liberalism? and (2) are his reformulations of liberalism consistent with its tradition? While Green's role in the changes undertaken in liberal doctrine toward the end of the 19th century is primarily of historical significance, his philosophical place in the liberal tradition and the theoretical alterations he effected are relevant today.

Liberal theory in the late 19th century required a new understanding of the role of the state, the nature of liberty, and the relationship between individual freedom and legal coercion. In George Sabine's view, at the center of Green's liberal philosophy is the idea of a general good or common human well-being. Liberty is both an individual and social conception, with the result that government ought to remove obstacles to individual moral development.[26] For John Morrow, while Green shared the liberal concern with the individual he also understood personal development as taking place within a social context. The ultimate standard though was the ideal of personal worth, and accordingly Green was expressing a view that had close affinities with traditional liberal concerns about individual well-being and moral autonomy. Hence, "...Green was a liberal of a sort because he was concerned with individuals...and can be regarded as part of the liberal tradition."[27]

Green, then, is commonly viewed as a liberal,[28] although others see him in an entirely different light, as presenting something other than a liberal outlook. Emile Brehier, for example, proclaims that his idealism has conservative tendencies. Green's mystic and ambiguous flirtation with the view that political societies are divinely-ordained means that his key conceptions in defence of individuality such as "individual well-being" are not strong enough to challenge political authority. Moreover, Green's idealist-based repugnance for individualism stands directly at odds with liberal methodology.[29] On a similar note, Frederick Copleston suggests that Green's philosophy represents a departure from traditional British individualistic moorings. It is not an atomic self in Green's thought which is to be realized, but a social self to be understood in a social context. With Green, concludes Copleston, "...we have an example of the revision of liberalism in accordance with the felt need for an increase in social legislation."[30] Largely behind some of the changes in nineteenth-century liberal doctrine was the recognition of the importance of social tradition and of the need for a more ecumenical approach to examining the place of the individual in political society. As a consequence, explains Lee MacDonald, political idealism "...corrected the error of those liberals who failed to take the independent moral worth of society seriously and made the individual unrealistically autonomous. In so doing, idealism, like virtually all movements of thought, overcorrected and made possible authoritarian extension."[31]

At issue in this exegetical survey of Green's place in the liberal tradition is the extent to which he upholds basic liberal principles. Liberalism, most would agree, may be understood as a philosophy of the primacy of the individual and as a politics of principle. The principles that should guide public policy include full liberty for all subjects; equality in both the political and civil sense, that is, in rights and law; the rule of law; tolerance for both opinions and actions that do not directly affect others; private property, whether as an absolute or conditional right; and finally a representative type of regime that at a minimum secures social peace and conforms to the wishes of the governed. These dispositions and principles can be said to represent the **essentia** of liberalism and constitute the basis by which we may speak of it as a tradition.[32]

Does Green subscribe to these key liberal tenets? At the broadest level, his philosophical defence of individual rights and personal involvement with and commitment to the role of voluntary associations in the development of public policy are consistent with liberal concerns about free personal development under representative and responsible political institutions. He also consistently informs his readers that a compelling theory of individual rights is one that must be based on a general system of laws and rights which treats all citizens as political equals and distributes political and social goods on the principle that no one individual ought to gain at another's expense. In addition, while no dogmatic proponent of the right to private property, Green does argue that human beings have a natural desire to acquire objects. So long as the accumulation of property and wealth does not interfere with the opportunities of others, the burden of justification for interfering with an individual's right to private property ultimately resides with those who attempt to override it. Telling in this instance is Green's strong support of the right to bequeath, a position predicated on his belief that individuals are best situated to determine how their property and wealth are to be utilized and distributed. Perhaps most important of all, Green's disposition, attitude, and outlook altogether are a model of the liberal spirit: his conviction that pettiness, selfishness, and dogmatism are the real enemies of mankind; that the use of arbitrary force and coercion is an affront to the dignity of man; that people are largely entitled to lead their lives as they see fit; that there is a private sphere no one individual or group of individuals may encroach upon; that individual self-government with its attendant obligations is a superior way of life; that there are duties to assist others in times of need; that the sole measure of the success of a government is its effect on individuals; and that a just system of laws and rights is attainable if individuals are tolerant and respectful of others yet remain vigilant against those whose cries for justice mask the naked pursuit of ambition and power.

In other important ways, however, Green accomplished more than a mere restatement of liberal concepts, principles, and ideals. If liberty is at once the paradigmatic concept, principle, and ideal of liberalism, what is to be included or excluded within the concept itself, what is to count as freedom and unfreedom, has significant implications. The activity of politics for Green focuses on the harmonization of interests and not the maximization of individual wants and desires. The operative principles and objectives of political institutions are not to maximize the satisfaction of individual wants and desires but rather provide a standard by which individuals may assess their wants and desires. Green maintains that a complete theory of freedom is one that must recognize that desires and needs are highly complex phenomena, that at a minimum it cannot be presumed as a generalization that individuals always act rationally (i.e., efficiently) in the pursuit of want-satisfaction and utility. Green's case against the dominant negative conception of liberty, a conception in which the content of desires is presumed independent of the issue of whether an individual is free or unfree, meant an expansion of the concept of liberty to include the nature and content of individual desires, beliefs, intentions, purposes, and reasons for action.

On balance, the liberal character of Green's political philosophy is indisputable: he reformulates key liberal tenets in order to strengthen, not undermine, liberalism. This issue would have greater significance for liberal political philosophers if there were elements of Green's general thought, such as a rejection of the idea of the primacy of individuals, that are decidedly anti-liberal. Yet there are neither detectable nor persistent claims on Green's part that are inconsistent with what would be expected from a liberal theorist. The contention over Green's place in the liberal tradition and the kind of liberalism he supports is an eclectic and at times unfocused debate over the extent to which the freedom or unfreedom of an individual is dependent upon the content of his or her desires, wants, and interests, which is why so much attention has been devoted to his conceptual treatment of liberty. Green opened new territory by questioning a conception of freedom which presumes that the objects of desires have either minimal significance for or nothing whatever to do with an individual's freedom and unfreedom. The extent to which liberal political philosophers are warranted in moving beyond the recognition of desires and wants in their understanding of liberty to the content and hence evaluation of desires and wants is a topic recently revisited by communitarians and civic republicans.

1.5. Contemporary Liberalism and its Challenge

While there is no way easily to categorize critics of liberalism--for there are so many--there exists a group called "communitarian." Charles Taylor, Michael Sandel, and Alasdair MacIntyre, among others, have dissected the liberal self and found it wanting. Still relying, it is said, on an arid individualism that aborts substantive public purposes, communitarians maintain that the liberal self is a monad protected by individual rights. Liberals conceive society as constituted by individuals whose goal is to fulfil exclusively private ends, primarily through relationships considered to be purely instrumental, and whose characteristic is the possession of individual rights that have priority over societal needs. This liberal self has self-selected ends and interests whose relationship at more personal levels with other selves and membership in associations are entered into voluntarily for the purpose of attaining these ends. The standards for choice and judgment are rational and abstract and are generated by an individual conceived as capable of judging and choosing independently of the influence of social roles and traditions. The liberal self is, as it is said, ahistorical and unencumbered. The liberal self sounds suspiciously like, as Benjamin Barber puts it, **homo economicus.**[33]

Communitarians are not, however, the only ones who have raised this issue. An explication of liberal virtues and goods is an important element of recent debate amongst liberals. Contemporary liberalism's starting point is a dual notion of equality and neutrality. The various and ingenious neutrality-equality constraints arise from a general concern that those who formulate conceptions of the good in politics are inherently paternalistic, even authoritarian. Ronald Dworkin, for example, argues that government must be neutral in matters of personal morality, and that liberal citizens are free to live as they think best so long--following in the footsteps of Mill--as they do not harm others. Further, liberalism "...insists that government must treat people as equals in the following sense. It must impose no sacrifice or constraint on any citizen in virtue of an argument that the citizen could not accept without abandoning his sense of equal worth."[34] Following John Rawls's A Theory of Justice, the goal of many liberals has been to determine a method of resolving political conflict that will satisfy people with otherwise different and even incompatible views of the world. One such proposal is what Bruce Ackerman calls "constrained conversation," which means that no claim is legitimate if it requires someone to assert that (1) his or her conception of the good is better than that of another, or (2) that he or she is intrinsically superior to one or more of his or her fellow citizens.[35]

Contemporary liberal theorists thus have focused largely on questions of neutrality, equality, and pluralism as the operative goals for a liberal state. Neglected (in some instances, rejected) are questions about virtue and what is good in liberalism. This failure of liberal theorists to justify their commitment to neutrality, equality, and pluralism has not gone unnoticed. The first path taken has been to reply to critics of liberalism (and also indirectly to liberals such as Rawls and Dworkin) that the liberal commitment to neutrality, equality, and pluralism already presupposes a definite conception of virtue in liberal politics as well as a discernible vision of the good. For William Galston, "...the modern liberal state is best understood as energized by a distinctive ensemble of public purposes that guide liberal public policy, shape liberal justice, require the practice of liberal virtues, and rest on a liberal public culture."[36] By its very act of sustaining diversity, reasons Galston, liberal unity circumscribes diversity. The liberal state does embrace a view of the human good; it will assess the role of the government with the fundamental aims that its citizenry uphold. On this latter point Stephen Macedo fully concurs; liberalism, he argues, cannot be neutral among public values. To the point, liberalism "...requires the support of positive values to explain why respect is owed to persons and to justify their having the rights they do."[37]

In the absence of justifications of the inherent worth of individuals, and why liberal society is both guided and limited by a conception of a good in its politics, liberalism loses its ability to justify its politics and liberal institutions. As Gerald Gaus cautions, the emphasis modern liberals place on the range of individual capacities has a hazardous element. There is a danger of leaving lines of development so open-ended that almost any type of life could be construed as consistent with the development of our capacities. Such a development, Gaus hints, could undermine arguments for liberty since the freedom to pursue all conceivable life-plans is in fact not presupposed by most liberal theorists.[38]

Indeed, Rawls himself has travelled a great distance from many of the claims made in A Theory of Justice. His two principles of justice,[39] in one of his recent restatements, are held to be political and not metaphysical. As he explains, "[t]o find a shared idea of citizen's good that is appropriate for political purpose, political liberalism looks for an idea of rational advantage within a political conception that is independent of any particular comprehensive doctrine and hence may be the focus of an overlapping consensus."[40] Elsewhere he writes that "...success in achieving consensus requires that political philosophy try to be, so far as possible, independent and autonomous from other parts of philosophy, especially from philosophy's long-standing problems and controversies."[41] Yet there has been a subtle shift in what Rawls is now asserting, for while he remains committed to a conception of liberalism that refrains from importing substantive conceptions of the good, he nonetheless grants that liberals must examine what binds and underlies the complex tradition of liberal democratic thought.[42] The chapters to follow take up his invitation to return to the liberal tradition in search of restatements of individuality, freedom and rights, all shaped and bounded by liberal public principles.

Endnotes

1. Cf. Melvin Richter, The Politics Of Conscience: T.H. Green And His Age (Letchworth, Hertfordshire: Garden City Press Limited 1964) for one of the better accounts of the relationship between Green's era and his thought. Andrew Vincent and Raymond Plant's Philosophy, Politics and Citizenship (Oxford: Basil Blackwell Limited, 1984) is highly recommended as well, especially Chapter 5 entitled "The New Liberalism and Radical Philosophical Idealism." Also cf. the introduction to Robert Eccleshall, British Liberalism: Liberal Thought From The 1640s To 1980s (New York: Longman, 1986). Both of the above attempt to chronicle the important place of Green as the initiator of the "new" liberalism. From a historical perspective on the changes in British politics during this time, cf. Rodney Barker, Political Ideas In Modern Britain (London: Methuen & Co. Ltd., 1978); Peter Clarke, Liberals And Social Democrats (Cambridge: Cambridge University Press, 1978); Michael Freeden, Liberalism Divided: A Study in British Political Thought 1914-1939 (Oxford: Clarendon Press, 1986); and Peter Weiler, The New Liberalism: Liberal Social Theory in Great Britain 1889-1914 (New York: Garland Publishing Inc., 1982).

2. It is not without some discomfort that I the use the term "communitarian." To be a communitarian presumably is to be something, but there is a great deal of ambiguity as to its meaning. We could say that a communitarian is someone who has a certain longing for belonging, but this hardly provides the **differentiae** for separating, for example, a communitarian theorist from a democratic theorist such as Benjamin Barber. I will simply demur from this question, with my reservation noted, and provide the traditional communitarian sources. Cf. Alasdair MacIntyre, After Virtue (Notre Dame: University of Notre Dame Press, 1981) and Whose Justice? Which Rationality? (Notre Dame: University of Notre Dame Press, 1988); Michael Sandel, Liberalism and the Limits of Justice (Cambridge: Cambridge University Press, 1982), "Morality And The Liberal Ideal," The New Republic (7 May 1984), pp.15-17., and "The Procedural Republic And The Unencumbered Self," Political Theory Vol.12 (1984), pp.81-96; and Charles Taylor, Hegel And Modern Society (Cambridge: Cambridge University Press, 1979), Philosophy And The Human Sciences: Philosophical Papers 2 (Cambridge: Cambridge University Press, 1985), and Sources Of The Self: The Making of the Modern Identity (Cambridge: Harvard University Press, 1989).

3. Cf. Cynthia Farrar, The origins of democratic thinking: The invention of politics in classical Athens (Cambridge: Cambridge University Press, 1988) and William M. Sullivan, Reconstructing

Public Philosophy (Berkeley: University of California Press, 1979).

4. For appraisals of the successes and failures of the general communitarian critique of contemporary and traditional liberalism,
cf. Allen E. Buchanan, "Assessing the Communitarian Critique of Liberalism," Ethics Vol.99, No.4 (July 1989), pp.852-882; Amy Guttman, "Communitarian Critics of Liberalism," Philosophy & Public Affairs Vol.14, No.3 (Summer 1985), pp.308-322; Susan Hekman, "The Embodiment of the Subject: Feminism and the Communitarian Critique of Liberalism," Journal Of Politics Vol.54, No.4 (November 1992), pp.1098-1119; Andrew Mason, "Liberalism and the Value of Community," Canadian Journal of Philosophy Vol.23, No.2 (June 1993), pp.215-240; Patrick Neal and David Paris, "Liberalism and the Communitarian Critique: A Guide for the Perplexed," Canadian Journal of Political Science Vol.23, No.3 (September 1990), pp.419-439; William Rehg, "Discourse Ethics And The Communitarian Critique of Neo-Kantianism," The Philosophical Forum Vol.22, No.2 (Winter 1990), pp.120-138; John R. Wallach, "Liberals, Communitarians, And The Tasks Of Political Theory," Political Theory Vol.15, No.4 (November 1987), pp.581-611; and Michael Walzer, "Liberalism And The Art Of Separation," Political Theory Vol.12, No.3 (August 1984), pp.315-330.

5. The "new liberalism," as Norberta Bobbio calls it, "...refers primarily to a widely supported economic doctrine, while political liberalism is regarded as no more than a means (and not even always a necessary means) to its realisation; or else it represents an uncompromising commitment to an economic liberty of which political freedom is viewed as no more than a corollary." Cf. his Liberalism and Democracy, Martin Ryle and Kate Soper, trans., (London: Verso, 1990), p.81.

6. The two best biographical accounts of Green are R.L. Nettleship's Memoirs of Thomas Hill Green (London: Longmans, Green, and Co., 1906) and Melvin Richter's The Politics Of Conscience: T.H. Green And His Age (Letchworth, Hertfordshire: Garden City Press, 1964). Since Nettleship and Green were both colleagues and friends, Nettleship presents a very personal and sympathetic account of Green's life, thought, and influence. Richter offers an equally ecumenical but somewhat more sober (i.e., less attached) analysis of Green's life and times.

7. For a more detailed discussion of Green's theological views and the broader effects of secularism at Oxford, cf. "Idealism And The Crisis Of The Evangelical Conscience" and "Three Families And Their Faiths" in Richter, op.cit.

8. Nettleship, op.cit., p.167.

9. Cf. Olive Anderson, "The Feminism Of T.H. Green: A Late-Victorian Success Story," History of Political Thought Vol.12, No.4 (Winter 1991), pp.671-693.

10. For a thorough account on the subject of Green's involvement in temperance societies, cf. Peter P. Nicholson, "T.H. Green And State Action: Liquor Legislation," History of Political Thought Vol. VI, no.3 (Winter 1985), pp.517-550.

11. Green's general recommendations were as follows. He recognizes that not all people will wish to attend university, but it is imperative that children be educated until at least the age of thirteen, at which time the student ought to possess skills in arithmetic and thoroughly be able to read and write in his or her own language. Those who wished to stay until the age of fifteen or sixteen ought to attempt mathematics along with Latin or perhaps some modern language other than English. Lastly, those wishing to stay until the age of eighteen (and therefore demonstrating a preference for university) would learn Greek and the natural sciences.

Insofar as funding and institutional prerequisites are concerned, Green approvingly cites the American system wherein high rates of public monies and endowments by the rich have together created a flexible system of universities. Moreover, the curricula reforms at Oxford (of which Green again played a role) assured that its doors would be open to those who met its prerequisites. Yet, as he notes, few had been able to afford the kind of education necessary to ensure fulfilment of Oxford's prerequisites. Hence his desire for fundamental reform of secondary schools. Cf. his "Lecture On The Work To Be Done By The New Oxford High School For Boys" in T.H. Green, Works of T.H. Green: Vol. III (London: Longmans, Green and Co., 1891), pp.461-471.

12. Cf. "Mr. Herbert Spencer And Mr. G.H. Lewes: Their Application Of The Doctrine Of Evolution To Thought," in Green, Works I, pp.372-541.

13. Cf. "Lectures On The Philosophy Of Kant," in Green, Works II, pp.1-157.

14. Cf. "The Philosophy Of Aristotle," in Green, Works III, pp.46-91.

15. Cf. "Lectures On Logic," in Green, Works II, pp.158-331.

16. Cf. "The Force Of Circumstances," "The Influence Of Civilisation On Genius," "The Value And Influence Of Works Of Fiction In Modern Times," "Popular Philosophy In Its Relation To Life," and "Four Lectures On The English Commonwealth," in

Green, Works III.

17. Cf. "Introduction To The Philosophy Of Religion," "Fragment Of Immortality," Essay On Christian Dogma," "The Conversion Of Paul,"
"Justification By Faith," "The Incarnation," "The Word Is High Thee," "The Witness Of God," and "Faith" in Green, Works III.

18. Cf. "The Grading Of Secondary Schools," "The Elementary Schools System Of England," and "The Work To Be Done By The New Oxford High School For Boys," in Green, Works III, pp.387-476.

19. T.H. Green, Prolegomena to Ethics 2nd ed. A.C. Bradley, ed. (Oxford: Clarendon Press, 1896), §4. All future citations from this book will refer to the section number. These numbers were introduced by Green's early editors and are still conventionally used.

20. Ibid., §8. This statement by Green may be the most succinct phrasing of what he means by "metaphysics." When he writes that "[w]e have to return to an analysis of the origins of knowledge" he means it in a very different sense than Locke, who also saw it as imperative to examine the origins of knowledge. Green believes that Locke's inquiry was necessary and important, but that his method was flawed. Locke's method of course was to examine the activities of the mind by turning in on one's thoughts, i.e., introspection. Green's point is that we cannot treat the active mind as if it were an observable event or phenomenon. The first chapter will explain his position on the nature of knowledge.

21. Green, Lectures On The Principles Of Political Obligation, Paul Harris and John Morrow, eds. (Cambridge: Cambridge University Press, 1986), §1. As with the Prolegomena, all references to Green's Lectures will be by section number.

22. A clarificatory note on what Green means by a "law of nature." He uses "law of nature," "natural law," and **jus naturae** interchangeably throughout the Lectures. It would be profitable to discuss here the meaning of natural law for Green, although specific formulations will have to be examined in the chapters dealing with the Lectures. As far as Green is concerned, a law of nature does not refer to a physical law of nature such as the law of gravitation. He regards a law as a rule or precept conceived by reason and promulgated with a view to the common good. Ethical natural law for Green is the totality of moral precepts promulgated by human reason as a result of reflection on the nature of man in society.

23. Ibid., §54.

24. *Ibid*., §24.

25. *Ibid*., §29.

26. George H. Sabine, "Liberalism Modernized" in *A History of Political Theory*, 3rd ed. (New York: Holt, Rinehart and Winston, 1961), p.735.

27. John Morrow, "Liberalism and British Idealist Political Philosophy: A Reassessment," *History of Political Thought* Vol. 2, no.1 (Spring 1984), p.106.

28. Some other notable commentators include Isaiah Berlin who writes that while Green is a "...critic of liberalism...", and that his type of idealism has led to the abuse of liberty, he was in the end "...a true liberal...." Cf. Berlin's introduction and "Two Concepts of Liberty" in *Four Essays On Liberty* (Oxford: Oxford University Press, 1969). Also cf. Avital Simhony's "Beyond Negative And Positive Freedom: T.H. Green's View Of Freedom," *Political Theory* Vol.21, no.1 (February 1993) and "On Forcing Individuals to be Free: T.H. Green's Liberal Theory of Positive Freedom," *Political Studies* XXXIX (1991). For a more provocative view that Green's liberalism is simply a felicitous restatement of classical liberal "possessive individualism", cf. C.B. Macpherson, *Democratic Theory: essays in retrieval* (Oxford: Clarendon Press, 1973) and I.M. Greengarten, *Thomas Hill Green And The Development Of Liberal-Democratic Thought* (Toronto: University of Toronto Press, 1981).

29. Emile Brehier, "Le Mouvement Criticiste" in *Histoire de la Philosophie. Tome II. La Philosophie Moderne* (Paris: Presses Universitaires De France, 1968), p.857.

30. Frederick Copleston, "The Idealist Movement In Great Britain" in *A History Of Philosophy: Volume VIII: Bentham to Russell* (New York: Image Books, 1966), pp.177-178.

31. Lee Cameron MacDonald, "The Nineteenth Century" in *Western Political Theory: The Modern Age* (New York: Harcourt, Brace & World, Inc., 1962), p.285.

32. A sufficiently generic definition of what liberalism constitutes would almost certainly end up entailing that anyone vaguely committed to liberty, equality, and autonomy, and opposed to absolute and arbitrary government would be "liberal." Consider how Nancy Rosenblum conceives liberalism.

> Liberalism is a political theory of limited government, providing institutional guarantees for

> personal liberty. It is clear enough what liberalism opposed in the past and must stand opposed to still: political absolutism and arbitrariness, and an array of officially sanctioned obstacles to the full exercise of religion, speech, and association.

Cf. her introduction to Liberalism and the Moral Life (Cambridge: Harvard University Press, 1989). Or consider Douglas MacLean's and Claudia Mills's version.

> Liberalism's starting point is the notion of equality, of equal respect for individuals as persons. This by itself, however, does not tell us very much about liberalism, for everything turns on what counts as equal respect.

Cf. their introduction to Liberalism Reconsidered, Douglas Maclean and Claudia Mills, eds., (Totowa, New Jersey: Rowman and Allanheld, 1983). L.T. Hobhouse also has offered an account of what liberalism means.

> Liberalism is the belief that society can safely be founded on [the] self-directing power of personality, that it is only on this foundation that a true community can be built, and that so established its foundations are so deep and so wide that there is no limit that we can place to the extent of the building. Liberty then becomes not so much a right of the individual as a necessity of society. It rests not on the claim of A to be let alone by B, but on the duty of B to treat A as a rational being.

Cf. "The Heart of Liberalism" in his Liberalism (London: Williams & Norgate, n.d), p.123. Or one could treat liberalism, as does Harry Girvetz, as providing a panacea for the conflict between individual wants and needs against those of society. As he explains,

> [c]ontemporary liberalism differs markedly from the [illegible]ical liberalism of the eighteenth and [illegible]eenth centuries. To define this difference is [illegible]t of the central social problem of our day: [illegible]gree to which we shall have collective [illegible] over individual behaviour--the degree, that is, to which individual interests shall be subordinated to social purposes. Thus a discussion of liberalism may not only aspire to clarity where confusion now prevails; it may throw light upon the most vital social issue

of our time.

Cf. the preface to his The Evolution of Liberalism (New York: Collier Books, 1963), p.14.

33. Cf. Benjamin Barber, The Conquest of Politics: Liberal Philosophy in Democratic Times (Princeton: Princeton University Press, 1988), p.18.

34. Ronald Dworkin, "Neutrality, Equality, and Liberalism," in Liberalism Reconsidered, p.3.

35. Bruce A. Ackerman, "The Liberal State" in Social Justice In The Liberal State (New Haven: Yale University Press, 1980). It perhaps ought to be noted that Ackerman contrasts his concept of "liberal dialogue," or the "dialogic requirement," with Rawls's contractarianism on the grounds that the latter violates the condition of neutrality. They nevertheless share an important view: the liberal state, if it wishes to remain liberal, cannot be based on an encompassing moral doctrine.

36. William A. Galston, Liberal Purposes: Goods, Virtues, And Diversity In The Liberal State (Cambridge: Cambridge University Press, 1991), p.3.

37. Stephen Macedo, "The Liberal Virtues" in Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism (Oxford: Clarendon Press, 1990), p.258.

38. Gerald F. Gaus, "Individuality" in The Modern Liberal Theory of Man (New York: St. Martin's Press, 1983), p.44.

39. First, the each person possesses an equal right to a fully adequate scheme of basic rights and liberties compatible with a similar scheme for all. Second, social and economic inequalities are to be attached to offices and positions open to all under conditions of fair equality of opportunity and to the greatest benefit of the least advantaged members of society.

40. Cf. Rawls's "The Idea Of An Overlapping Consensus," Oxford Journal of Legal Studies Vol.7, No.1 (1987), pp.1-25. To the understand the changes Rawls's theory has undertaken, cf. "The Priority of Right and Ideas of the Good," Philosophy & Public Affairs 17, no.4 (Fall 1988), p.256. and "The Basic Liberties and Their Priority," in Liberty, Equality, And Law: Selected Tanner Lectures on Moral Philosophy, Sterling M. McMurrin ed. (Cambridge: Cambridge University Press, 1987).

41. Rawls, "The Idea Of An Overlapping Consensus," p.8.

42. Cf. David C. Paris, "Liberal Political Theory," *American Political Science Review* Vol.85, No.3 (Sept. 1991), p.876.

Part Two

Chapter Two:

The Integrated Liberal Self:

Green's Conception Of Liberal Individuality

2.1. Liberalism and Human Agency

The liberal-communitarian debate has forced a reexamination of liberal human agency[1] and liberal individuality[2]. While contemporary liberals have been preoccupied with questions pertaining to the good (and derivative issues such as pluralism, neutrality, and toleration), on the meaning of autonomy, and on the nature of individual rights, communitarians have played a significant role in having the constitution and character of the self added to the many topics liberal political philosophers address. A number of critical tracts have arisen against the self supporting liberal individuality the aggregate effect of which has served to challenge liberal individuality; these include works by Alasdair MacIntyre, Michael Sandel, and Charles Taylor. At the same time, however, a number of attempts have been made by liberal theorists to answer these criticisms by reconstructing the liberal idea of the self; these include Vinit Haksar's non-reductivist/perfectionist self,[3] Jack Crittenden's compound individual,[4] and Seyla Benhabib's embedded, embodied, and socialized subject.[5]

I believe that Green is more relevant than has been recognised in this regard. While there has been recent interest in Green's conception of individuality,[6] little attention has been paid to his encompassing vision of a human being and how it relates to persisting issues about human agency between liberals and communitarians. I maintain that Green's moral thought in particular provides a rich resource for contemporary liberals to exploit, particularly those who acknowledge the objections to the received liberal self and yet remain concerned about the dubious place of individuality in communitarian reasoning. The purpose of this chapter, then, is to explore Green's conception of human agency and individuality. The objective is to defend Green's conception of the self as an idealist-based self-conscious individual against its critics and offer it as an example of the kind of conception of human agency necessary for upholding both the inherent worth of individuals and individuality so integral to liberal political philosophy. I will refer to Green's conception of a full human moral agent as his "integrated liberal self," for its affective and cognitive faculties are brought together in a sophisticated and compelling fashion. More importantly, this integrated liberal self is a socially embedded individual, one who understands its cultural and intellectual inheritance but is autonomous insofar as it is determined to assess that heritage by developing an individual character and life-plan through its participation in social practices. This individual is one who can distinguish between the interests exclusive of its individuality and those of the larger community and thus represents a true liberal ideal of individuality, of reflective consideration of the needs and interests of both itself and others.

The chapter is organized as follows. Section 2.2. examines the received views of Green's conception of the self and individuality. Specifically, Isaiah Berlin, Harold Laski, and J.P. Plamenatz have said that Green undermines individuality.[7] The debate occasioned by Berlin, Laski, and Plamenatz and the responses it has evoked highlights the importance of human agency to political philosophy notwithstanding Michael Walzer's recent indictment that the battle over the constitution of the self is not terribly important.[8] Sections 2.3 to 2.6. examine Green's general metaphysics: his understanding of the nature of a knowing agent and his conception of a complete human and hence moral agent. His interest in topics pertaining to the philosophy of mind may not interest all, so while the procedure is somewhat unorthodox, I invite readers uninterested in these topics to bypass sections 2.3. to 2.6. and begin at 2.7. where a brief summary of the relevant sections is provided. Section 2.7. will demonstrate that Green does take individuality seriously, and that revising yet retaining the critical self so prominent in liberal thinking is one of his principal concerns. The individual for Green is supreme because his or her self-conscious nature presupposes a unified identity throughout his or her entire life. Finally, Section 2.8. concludes by arguing that self-conscious activity coupled with the development of character--the repository of life experiences--constitute the grounds on which Green defends a unified and critical human agent consistent with liberal concerns for upholding the inherent worth of individuals.

2.2. The Significance of the Self

Much consideration in liberal thought has been devoted to what it means to be a person. The constitution of the self has become a focal point for both liberalism's defenders and critics. There are two primary doctrines--philosophical doubt and political atomism--that characterize liberal selves. Whether or not the two doctrines are necessarily related, a common element of social contract theory and utilitarianism--similar ground between Locke and Mill--is that fallibility by itself represents a case for granting the widest possible liberty of thought and action.[9] The theme is of course familiar to a present-day reader of liberal philosophy. As Will Kymlicka notes, John Rawls, Ronald Dworkin, Robert Nozick, and Joseph Raz "...all argue for a right of moral independence not because our goals in life are fixed, or are arbitrary, but precisely because our goals can be wrong, and because we can revise and improve them."[10] The proposition that fallibility itself provides strong grounds for upholding individual liberty is based on what we may call the "agnostic axiom" and is a "doctrine of uncertainty." The other doctrine is political atomism, what Taylor characterized as a "...vision of society as in some sense constituted by individuals for the fulfilment of ends which were primarily individual."[11] The dependence of liberalism on the doctrine of atomism is evident to Robert Paul Wolff who depicted liberal individuals as belonging to a world of private values[12] and to Michael Walzer who portrayed liberalism as a world of walls.[13] In the eyes of some of liberalism's detractors, the self conceived in liberal political thought shapes and determines its politics.

Green conception of the self was based neither on the doctrine of atomism nor of uncertainty, and it is his implicit rejection of the latter doctrine which has occasioned scrutiny. In fact, Green has been the victim of anti-Hegelian sentiment. The uneasiness over his conception resulted from the tendency to view Green as if his purpose had been to transplant Hegelian roots onto British soil.[14] Berlin maintains that Green partitions the individual into two realms: an empirical self and a metaphysical self. This empirical self, it is argued, is at odds with the demands for self-mastery and control presupposed by the metaphysical self. Idealist accounts of the self such as Green's allegedly have led to an abuse of the concept of positive liberty since this empirical self can become a slave to the higher, metaphysical self. The metaphysical self can be used to justify dominion and even domination over others.[15] For Plamenatz, the issue over the empirical and metaphysical self is not so much that the possibility of tyranny exists, but that idealists deny such things as lower impulses. According to Plamenatz, the "...Idealist account of freedom requires, if it is to be plausible, the reality of the lower impulses which it denies."[16] Laski also expressed concern over the idealist project in general. Liberty for idealists is positive self-determination of the will, and the real will is a common will which finds its highest embodiment in the state. Whatever personality is to be formed from such a conception would simply be an expression of the organized whole, of the state. Such a view of liberty implies "...not only a paralysis of the will, but a denial of that uniqueness of individuality, that sense that each of us is different from his fellows, that is the ultimate fact of human experience."[17] For Berlin, Plamenatz, and Laski, Green was regarded as part of a tradition that divides a self between lower and higher, unauthentic and authentic elements and insists that persons attain freedom only if or only to the extent that the higher self governs the lower.[18]

Recent scholarship has tempered the charge against Green of metaphysical dualism, that such concerns about Green's conception of individuality were greatly exaggerated. Avitol Simhony replies that Green's principal objective was to bring opportunities and individual capacities together since, she believes, to speak of opportunities in the absence of an account of our capacities is one-sided. While there may be implications for any theory which posits the possibility of a higher self, there nevertheless is no divided self in Green's thought. While Green attempts to move away from freedom understood as doing what one wills to freedom understood as rational self-mastery, he grounds the latter on the basis of a unitary, not a divided, self. Even if it were the case that Green posits a higher self capable of being transformed into a defence of tyranny in the name of reason, he is in no way committed to this outcome.[19] Gerald Gaus in similar fashion responds that while Green appears to uphold a dual conception of man and thus a plurality of selves within one individual, his conception is in fact unitary. His reasoning is that "...whatever particular capacities and talents we possess, in so far as their cultivation is understood as the realisation of rational or intellectual faculty, all known "perfection" (to use Green's language) is essentially the same."[20]

Such contrasting views demonstrate how conceptions of identity and selfhood form a prelude to the study of ethics and politics. The bearing of human agency upon liberty, for example, did not escape Jeremy Waldron when he wrote that "[o]ur sense of what it is to have and experience freedom is bound up with our conception of ourselves as persons and of our relation to value, other people, society, and the causal order of the world. From the point of view of moral and political philosophy, then, human agency is a rich seam of value which competing conceptions of freedom mine in differing ways."[21] Our capacity to understand and our ability to know, which together comprise for Green the metaphysics of knowledge, and the issue of reconciling individuality with our social natures may then at first sight appear to be separate topics, but they are closely related. That the liberal conceives of the individual as the sole possessor of claims against society affects every aspect of liberalism: its understanding of human nature, of human knowledge, of the relationship between man and society, its social goods and political values, and ultimately its practical decisions and policies. Given that a guiding theme of liberalism is scepticism about our ability to understand fully what is in the best interest of individuals and communities, it should not be surprising that Green examines the issues that are part of the analysis of knowledge. What is striking is that his account does not embrace traditional liberal scepticism about our ability to know. Green considers some interests more important than others, most notably a common interest in developing self-reliant and self-governing individuals.

A flawed or ambiguous conception of human nature arising from a suspect conceptual self makes for impoverished political philosophy, and several paths designed to be corrective in nature have been forged by Haksar, Crittenden, and Benhabib concerning the constitution of the (liberal) self. Haksar argues that how personal identity is conceived determines the type of ethic that lies at the base of all political philosophy. In the absence of a unified self over the course of a lifetime the rights-based ethic predominant in liberal societies collapses. Individuals in liberal societies are considered to be sacred on the grounds that they are ends in themselves over the course of a lifetime. This predisposition not only explains why liberal societies accord a sacred status to individuals, but also is the foundation of a rights-based ethic.

There is a broad presumption that individuals cannot be sacrificed for utilitarian or other ends, which for Haksar implies a particular metaphysic of a persistent self.[22] Crittenden, utilizing a theory of "compound individuality," argues that liberal autonomy is misconceived if it is taken to mean that self-identity can be understood independent of the society of which he or she is a member. As he explains, "[b]y interiorizing all identity, the person has the illusion that he is free of encumbrances and obligations, free to generate his own aims, values, and ends, and owes nothing to anyone or to society for them."[23] The theory of compound individuality urges the view that the self changes qualitatively over time, and that one's self-sense is both a product of and a part of the process of developmental changes.[24] Finally, Benhabib maintains that the insights of the universalist tradition in practical philosophy that dominates liberal theory can be (and should be) reformulated without committing oneself to what she calls "illusions" of the Enlightenment. These insights "...are the illusions of a self-transparent and self-governing reason, the illusion of a disembedded and disembodied subject, and the illusion of having found an Archimedean standpoint, situated beyond historical and cultural contingency."[25] Benhabib, like Crittenden, argues that the process of socialization cannot be dismissed by liberal thinkers. Moreover, Benhabib asserts that "[i]n the final analysis, conceptions of self, reason, and society and visions of ethics and politics are inseparable."[26]

Green expressed concern with the various ways in which the concept "person" can be employed. In one sense, a person is a subject of rights and nothing more and legal personality is derived from the possession of right (not vice versa). As he explains, such a conception is a "juristic truism" insofar as it reminds us that when we speak of persons as bearers of rights we imply the existence of parties capable of suing and being sued. There is another meaning of "person" that Green strongly urges us to consider, not in a legal but rather an ethical sense. Rights are derived from a personality governed by a "rational will," a capacity which an individual possesses of being determined to action by a conception of perfection of both oneself and others. Green's principal claim is that only a person in the ethical sense is a true bearer of rights because the possession of a rational will is the grounds for the possession of rights, and rights are justifiable only when they contribute to what the rational will putatively counsels, i.e., a desire for perfection.[27] As Green adds, "...we have been apt to take too narrow a view of the range of persons--

not one generation merely but succeeding generations--whose freedom ought to be taken into account, and of the conditions necessary to their freedom (freedom here meaning their qualification for the exercise of rights)."[28] The implication of Green's ethical (in distinction to the juridical) conception of a person is that the self conceived in liberal thinking is not a proper subject of rights.

Are there grounds to accept the testimony of Berlin and others that Green's self is potentially illiberal, that to expand an analysis of desires and wants to include the content of the desires themselves is to offer justification of paternalism and perhaps tyranny? The remainder of this chapter is devoted this topic. Before such an indictment is accepted, it must be made clear why Green believed the concept of the (liberal) self was flawed. To this end, much of the following chapter is devoted to the clarification and delineation of the elements of Green's integrated self. The following questions then will be posed: What for Green constitutes consciousness? What is the difference between consciousness, which is a feature of any affective state of mind, and self-consciousness, which is exclusively a cognitive state? What makes for agency? What is a person? The answers to these and related questions provide the foundation upon which a theorist committed to defending individuality ought to build. We will begin the discussion "down a little," as Green apparently was fond of saying, and address these questions through what he wrote. He believed the prevalent conceptions of knowledge and identity in British thought were mistaken, and in fact worked to undermine moral philosophy in general and individuality in particular. For Green the utilitarian and hedonistic conceptions of selfhood especially were flawed, and so too any account of our social natures that utilizes utilitarian or hedonistic premises. By clarifying Green's conception of human agency we will be able to see that he conceives the self as unified, and we will glimpse at the genesis of critical thought which is crucial to the defence of liberal individuality.

2.3. Green's Metaphysics: A Prelude to the Knowing Self

As Andrew Vincent and Raymond Plant note, given the importance of human nature in examining political philosophy to idealists such as Green, we must begin by exploring their metaphysical writings.[29] In Green's case this means we must begin with an account of what he calls the "conditions of knowledge." A philosopher must be able to explain why there is a subject-matter such as moral philosophy. Philosophers, he argues, must explain why a metaphysic of morals is possible and necessary or else abandon the study of ethics **in toto**. Green maintains that the British tradition of ethical enquiry is one which relies solely on physical phenomena, and that this affects the type of self conceived by those in the tradition. This conception of ethics is the product of what Green calls the "popular philosophy" bequeathed by Bacon and Locke, a conception that "...altered the Platonic/Aristotelian question[,] What is the world that man knows, and how does he know it? to the question[,] What is the world that he has made for himself, and how has he been able to make it?"[30] Here Green argues that the "popular philosophies" from Bacon to Mill "...have this in common, that they rest wholly on feeling. Of feeling, as such, they give no account. As in the popular theory of knowledge, no distinction is made between sensation itself and the intellectual judgment of which sensation is the occasion or accompaniment, so in the corresponding theory of morals, feeling is treated as the exhaustive account of all modes of consciousness with which it is associated."[31] A British moral philosopher, explains Green, typically distinguishes the nature and origin of pleasure and pain (which are presumed to be the sole objects of human desire), traces their effect upon conduct and action, and then assesses which courses of action are most conducive to bringing about desired results. Green counters that ethics thus understood, "...becomes to all intents and purposes a science of health, and the true moralist will be the physiologist who...traces the influence of historical and political factors...in giving a specific character to those susceptibilities of pleasure and pain on which, according to the theory supposed, the phenomena of human action depend."[32]

The conception of individuals as motivated to act either to attain pleasure or avoid pain--a conception of individuals as "enlightened pleasure-hunters"[33]--is the product of utilitarianism, and more broadly the hedonists and naturalists of the British tradition. In Green's estimation, moral sense in the accepted British way is viewed as "...a social sentiment either of satisfaction in the view of such conduct as has been generally found to increase the pleasure or diminish the pain of others, or of uneasiness in the reverse, quite apart from any expectation of personal advantage or loss."[34] Green believes that conceiving moral sense in this fashion is incompatible with a disinterested survey of pleasure and pain. Judgements involving the resolution of conflicting courses of action between individuals cannot be made on the basis of individuated and variegated experiences of pleasure and pain. As he explains, "...to have a conscience, to feel remorse, to pursue ideals, to be capable of education through appeals to the sense of honour and of shame, to be conscious of antagonism between the common and private good, and even sometimes to prefer the former..."[35] are inexplicable if we attempt to account for such phenomena by reducing them to manifestations of pleasure and pain. Instead Green argues that we must first enquire as to whether a being who was solely the result of natural forces (the voluntarism of Hobbes through Mill) could form a theory of natural forces. In other words, "[w]e have to return once more to that analysis of the conditions of knowledge, which forms the basis of all Critical Philosophy...and to ask whether the experience of connected matters of fact, which in its methodical expression we call science, does not presuppose a principle which is not itself any one or number of such matters of fact, or their result."[36]

Green believed that before we can explore the nature of morality we must examine our capacity to know; and such an analysis constitutes a metaphysics of knowledge. The primary question of metaphysics is not, Is knowledge possible? but rather, How is knowledge possible? Metaphysics is "...simply the consideration of what is implied in the fact of our knowing or coming to know a world, or, conversely, in the fact of there being a world for us to know."[37] The principal consideration for a metaphysician consists in the object of knowledge and subsequently attempting to account for the conditions implied in the existence of such an object. The confusion between the metaphysical question, What is the simplest element of knowledge? and the physiological one, What are the conditions in the individual human being in virtue of which it becomes a vehicle of knowledge? has its origin with the philosophy of Locke. For Locke, the problem was the origin of ideas in the individual and their connection as constituting knowledge, and his method consisted in observing the operation of one's own mind. The mind for Locke is a **tabula rasa** with the simple idea, the elementary constituent of knowledge, representing the beginning of intelligence. Yet it is precisely this method of peeking into the operation of the mind that presents an insurmountable problem: how is this "empty table" able to be cognizant of itself?

The legacy of Locke's method has cast a long shadow over the understanding of nature and meaning of knowledge. The simple idea as the most basic element of knowledge must refer either to a thing or its cause or else the simple idea cannot be regarded as a real or true idea. If the simple idea excludes all references but those pertaining to itself then there cannot be a consciousness of a distinction between what is and what is not; that is, there could not be a basis for judgment at all. As Green counters, "What meaning is there in asking whether any given idea is real or not, unless a reference is implied to something other than the idea itself?"[38] For Locke, the beginning of knowledge is already, as Green puts it, the judgment that "I have an idea different from other ideas, which I did not make for myself."[39] Locke's notion of the self based upon the passive mind receiving imprints from sensation is that of an "inward substance" or "substratum of ideas" coordinate with outward objects wherein they exist. Sensation, so Locke's argument goes, convinces us that there are solid, extended substances, and reflection that there are thinking substances. The use by Locke of the faculty of memory only temporarily resolves the dilemma of the developing intelligence. The objection is fairly straightforward: the thinking substance called a self can be said to be a persistent and permanent substance only so long as its memories remain intact; any destruction of the self's memory represents its own destruction.

It was Locke, Green maintains, who recast empiricism in palatable terms--popularized it--by explicating its prime article that thought has nothing to do with the constitution of facts but only with the representation and signification of mental signs. But Locke did anticipate two future methods of explaining personal identity: (1) Hume's method of disposing as fictitious the unity of feeling in an agent; and (2) Kant's recognition of thought as constituting the objective world. While Locke did admit of a consciousness that is not part of our ideas of reflection, "...it is one for which the psychological method of observing what happens in oneself cannot account, and which therefore this method, just so far as it is thoroughly carried out must tend to discard."[40] Hume however did follow through with this method by trying to explain thought or "cognition by means of conceptions" as something which happens in sequence upon previous psychical events. Hume begins with simple feeling as first experienced by the individual, but unqualified by complex conceptions of matter or of mind, and attempts to trace the process by which the mind generates the ideas of philosophical relations. Similar problems arise though for Hume as for Locke: Hume's theory cannot explain how one's knowledge comes to extend beyond the range of memory; and moreover the philosophical relation of cause and effect once again is, as in Locke's case, presupposed in Hume's account of the role of custom in shaping identity. If the only thing in Hume's approach not fictitious about identity is the succession of feelings, then identity of body disappears as inevitably as identity of mind.[41]

It is unclear what Green finds more objectionable: the methods associated with Locke and Hume to explain the basis for identity, or how their methods have been interpreted by proponents. Green agrees with Locke and Hume that objects of consciousness--matter and motion for example--are materially conditioned, that many ideas are imprinted upon the mind by objects of sense, but what in their accounts is left unaccounted for is the function of the soul. Green does not take issue with the proposition that the knowledge of matter and motion are important in understanding the function of the soul. Yet instead of focusing on the various properties imputed to matter and motion, Green prefers to speak of "relational properties," that matter and motion consist in and are determined by conceptual relations. Green's artillery here is this: the various ways in which we think of things and the relations we establish between the particular elements of experience cannot be derived from sense perceptions. To connect the data of the senses with one another and to formulate relations between them requires something over and above experience. Here then we have the starting-point of a rational self. So the question for Green is what the nature of the relations, or the principle of unity of phenomena, suggest. Whatever explanation we use to explain natural phenomena, we are always "...in effect asserting the existence of something which, as the source of a connected experience, renders both the nature that we know and our knowledge of it possible, but is not itself physically conditioned."[42]

It is here that we find Green asserting his own doctrine of the relationship between self-conscious activity or mind and external reality or nature. For Green, Kant's dictum that "the understanding makes nature" represents a better account of the nature of knowledge--although he does modify the doctrine by rejecting as unreal the thing-in-itself. Unlike Kant, sense experience in Green's eyes is not impressed upon the self from without but is rather produced from within. The very claim, retorts Green, that objects of experience are derived from a quality or power of an external object already involves some kind of relation. Relations are what connect sense data, and can hardly be conceived as subsisting between experience and something that is not experienced. Green explains that the manifold of phenomena we experience are ordered in some kind of fashion.[43] From this he reasons that

> [t]he terms "real" and "objective"...have no meaning except for a consciousness which presents its experiences to itself as determined by relations, and at the same time conceives a single and unalterable order of relations determining them, with which its temporary presentation, as

> each experience occurs, of the relations determining it may be contrasted.[44]

Green's point is that a philosopher must at least attempt to answer the question whether the consciousness for which the contrast between what is real and what is apparent has anything to do with the establishment of the relations in which it conceives reality to exist. As he explains, "...if events were merely events, feelings that happen to one now and next moment are over, no law of causation and therefore no knowledge would be possible....What meaning has real existence, the antithesis of illusion, except such as is equivalent to this conception?"[45] Even if this question is answered in the negative,

> ...there will still be an important sense in which understanding, or consciousness as acting in the manner described, may be said to be the principle of objectivity. It will be through it that there is **for us** an objective world; through it that we **conceive** an order of nature with the unity of which we must reconcile our interpretations of phenomena, if they are to be other than "subjective" illusions."[46]

Green considers it inevitable that we presume the world to be a single and eternal system.[47] The understanding of relations between the manifold of phenomena may be related by endless diversity, but there still remains a relation, something that unifies discrete experiences. He argues that we are entitled to say that this idea of understanding--of relations between matters of fact--is the source of there being for us an objective world, that it is the principle of objectivity. For Green this formulation of consciousness accounts for our ability to distinguish what is real from what is unreal. What is it then that accounts for our consciousness of change in nature? Green's answer is that

> ...a form of consciousness, which we cannot explain as of natural origin, is necessary to our conceiving an order of nature, an objective world of fact from which illusion may be distinguished. In other words, an understanding--for that term seems as fit as any other to denote the principle of consciousness in question--irreducible to anything else, "makes nature" for us, in the sense of enabling us to conceive that there is such a thing.[48]

For Green, the antithesis between the real and the work of the mind simply is invalid and unmeaning because such an antithesis could only be answered by a distinction which would imply that there is something unreal or non-existent (e.g., an anti- or non-reality). Such a question, he continues, only arises out of an abstraction from our enquiry into the real nature of some appearance or event--an enquiry in which some kind of unchanging relation exists. Green asks in its place what is implied in there being a nature of things. As we presuppose an order to nature, what is implied in there being an all-inclusive system of relations? Green thus replaces the traditional distinction between appearance and reality with that between partial and complete knowledge. If there is a unified experience of related objects, then there must be operative in consciousness a unifying principle which not only presents objects to itself but which also at the same time renders them objects and unites them in relation to each other. For Green, the question of whether understanding is unified in some sort of way was seldom broached in the British tradition, and the implications of a unifying principle were never explored. Any reduction of thought or spirit or self-consciousness to a product of nature would in fact undermine the only explanation of unity-in-identity for an agent throughout a series of changes. In so explaining spirit or thought, he notes, "...we should be rendering the basis of our explanation itself inexplicable."[49] It cannot be too greatly emphasised that human experience consists not of chemical processes or physical events in an animal organism, but rather of these processes together recognized as such. The dilemma of explaining knowing agents is hardly resolved by Green's account, "...but when the source of illusion is known, the bondage is already broken."[50]

2.4. Affective and Cognitive Faculties

At this stage Green's main point is not that the uniformity perceived in nature means that matter and our perception of matter are identical--a distinction must always be made between mind and matter--but rather that they are related. The result of this view is that we overcome the separation between both the faculty of and capacity for understanding the facts as presented in nature. Such a dichotomy has rendered knowledge inexplicable, for it

> ...leaves us without an answer to the question, how the order of relations, which the mind sets up,

> comes to reproduce those relations of the material world which are assumed to be of a wholly different origin and nature. Nor, as we pursue the analysis of the operations involved in the simplest perception of fact, are we able to detect any residuary phenomena amounting to a fact at all....[51]

Green here raises what amounts to two separate questions. How beneficial is it to persist in accounting for the operation of the mind in terms of sensations? And if we persist with this account, then we are forced to ask whether the qualities of sensations are independent of the minimally self-distinguishing subject. Green begins his response by replying that we can only know or understand through the medium of a thinking and self-distinguishing consciousness, and that a sensation apart from thought cannot amount to an experience and therefore a fact. Relations are the precondition of a sensible fact; sensations exist only through the action of a self-distinguishing subject; and thus thought is the necessary condition of there being a sensible fact. A suspension of thought, as it were, amounts for us to the suspension of fact or reality. Green admits that we can only make negative statements about what consciousness is in itself or in its completed state. Yet he cautions that this ought not deter us from recognizing that consciousness is implied in the existence of the world, and that such a consciousness is required in order to know the world at all or to speak of an intelligent experience.

Green has been attempting to bring together the elements of an experience. An experience is as he calls it "matters of fact recognized as such." Thought and feeling are the constituent elements of an experience, but the experience is incomplete until together thought and feeling are unified in a relation. Feeling, Green explains, has no place in the world of facts unless informed by thought. That said, feeling and thought are inseparable and mutually dependent on the consciousness for which our knowledge of the world exists. Feeling and thought are also dependent on each other; they comprise the one world of experience in which a self distinguishes itself from other objects. Only by abstracting thought and feeling, separating them when they ought not to be separated, do we reduce each to what they are not. Together feeling and thought represent "...one form of activity of the consciousness which in inseparable union they constitute...."[52]

Green thus rejects the view that there can be thought without feeling and feeling without thought on the grounds that the view is an unwarranted abstraction. Here then we have his express doctrine of the mind and of understanding linked together through affective and cognitive states of mind. The characteristic of mind for Green is consciousness--a power to form inner representations and symbols--which is the near equivalent of a capacity for symbolic activity. The senses provide us with sensual imprints and the intellect with concepts. An agent capable of receiving sensual imprints and conceptualizing the experience would be a self-distinguishing agent. This operative power to conceptualize is self-consciousness, which is not equivalent to consciousness for the former is participation in a process of change and the latter is the exercise of our capacity for perception--the awareness of, and ability to respond to, changes in the environment given us by senses such as hearing, seeing, smelling, and tasting. The question that consequently arises is what it means to be a self-distinguishing or self-conscious subject. It is here that we begin to see the formation of Green's entire conception of a self.

2.5. Self-Consciousness and Reason: Elements of a Self

What animates Green is how we understand what it means to have a personal past and what is involved with the assessment of that past. The enquiry into what an individual is "...must refer not merely to a character which he has as more, and other, than a joint result of relations to other things--such a character he has simply living--but to the character which he has consciously distinguishing himself from all that happens to him."[53] Attaining knowledge throughout the course of a lifetime--an individual's history--may be deemed a phenomenon, but not the consciousness of this history itself. An historical fact or event is distinct from that which unites facts or events together. The relations and related facts formed in consciousness cannot be deemed phenomena for a phenomenon is a sensible event, related in a way of antecedence and consequence to other sensible events. The contents of consciousness are neither events so related nor exclusive products of such events; otherwise there would be no unity to the discrete events that make up what it is to have an experience.[54] When, for example, a personal history is assessed, its existence in the consciousness is no longer an event. The process is one in which events are brought together and where some kind of unification takes place.

Green considers it crucial to bear in mind that by the very act of exercising the faculty of understanding we move away from the view that thought and free will are illusions. We may doubt whether we have free will, but it has been demonstrated that we are conscious and self-distinguishing creatures. Consciousness is a faculty both affective and cognitive that receives sensual imprints and impulses but at the same time distinguishes between such imprints and impulses. Green recognizes that there could be a double consciousness or dual self construed from what has been said. The self, he explains, "...is not something apart from feelings, desires, and thoughts, but that which unites them, or which they become as united...."[55] Moreover, just as "...desires, feelings, and thoughts would not be what they are--would not be those of a man--if not related to a subject which distinguishes itself from each and all of them[,]...this subject would not be what it is if it were not related to the particular feelings, desires, and thoughts, which it thus distinguishes from and presents to itself."[56] Again, "[n]o desire which forms part of our moral experience would be what it is, if it were not the desire of a subject which also understands: no act of our intelligence would be what it is, if it were not the act of a subject which also desires."[57] We have, Green maintains, "one mind, not two minds:"

> ...but we can know that one mind in its reality only by taking account, on the one hand, of the process in time by which effects of sentient experience are accumulated in the organism, yielding new modes of reaction upon stimulus and fresh associations of feeling with feeling; on the other, of the system of thought and knowledge which realises or reproduces itself in the individual through that process, a system into the inner constitution of which no relations of time enter.[58]

As self-conscious beings we are not determined by natural forces to act in one way or another. Instead we participate in the progress towards which our recognition of consciousness directs. We are free to the extent that while we are part of nature, we yet remain aware of our existence within a system of relations called nature. This is the foundation for which we may speak of ourselves as being free (some might respond that it is the source of bondage) but also the grounds for which we may speak of critical awareness. Subsequently we can say for Green that freedom is only realizable for an agent with reflective capacity; that by virtue of our character as knowing subjects, we are "free causes." While our

> ...consciousness is throughout empirically conditioned... consciousness would not be what it is, as knowing, or as a subject of intelligent experience, but for the self-realisation or reproduction in it, of an eternal consciousness not

> existing in time but the condition of there being an order in time, not an object of experience but the condition of there being an intelligent experience, and in this sense not "empirical" but "intelligible".[59]

Green cautions that there has been some ambiguity surrounding the notion of "causation" as it bears on the relationship between nature and man. His view is that nothing warrants us speaking of an individual as the sole author of acts; nor is there any sense in speaking of individuals as determined by nature. As he explains, "[t]he world has no character but that given to it by [self-conscious] action; the agent has no character but that which it gives itself in this action."[60] What Green calls the "action of our mind" is not determined by the spiritual principle in nature[61] because "...we ourselves are not so much determined by it as identified by it with itself, or made the subjects of its self-communication."[62] We are a "reproduction" of the eternal mind, or God, in that we possess the characteristic of "self-origination" and unify the manifold of phenomena in nature. Any other account of the origin of knowledge such as that of naturalists or hedonists, Green maintains, fails to account for the end of the self-conscious agent and thus is no self at all. The question

> ...whether a man himself, or in himself, is a natural or animal being, can only mean whether he is so in respect of that which renders him conscious of himself. There is no sense in asking what anything **in itself** is, if it has no self at all. That which made what it is wholly by relations to other things, neither being anything but their joint result nor distinguishing itself from them,

has no self to be enquired about.[63]

The characteristic of self-conscious activity is that it awakens us to an apprehension of a world that **is** and of a world that **should be**, an apprehension carrying with it implications for how we desire objects. From the transition from a mere want to a consciousness of a wanted object arises "...the idea of a satisfaction on the whole--an idea never realisable, but for ever striving to realise itself in the attainment of a greater command over means to the satisfaction of particular wants."[64] Our awareness of the world occasioned by sensations and feelings combined with our self-conscious capacity to differentiate what is experienced from the activity of thinking itself thus brings together external reality and the operation of the mind. The doctrine here underlying Green's metaphysic, that of a development from who we are to what we may become, is for Green a necessary position: if this doctrine be true, he contends, then we can explain people as we find them; without it we cannot explain anything.

2.6. Reason and Will: The Self as a Moral Agent

What does Green mean by a "self"? A self is a self-conscious being comprised of the capacities of desire and will and the faculties of intellect or reason. Mind, as the capacity for intellectual abilities, is both volitional (will) and cognitive (reason). To will is "...an effort (or capacity for such effort) on the part of a self-conscious subject to satisfy himself..."; by reason Green means "...in the practical sense, the capacity on the part of such a subject to conceive a better state of itself as an end to be attained by action."[65] Green treats will and motive as synonymous concepts, both of which are directed to an idea of an end which a self-conscious agent presents to itself and which it strives, guided by reason, to realise. The error which Green believed his predecessors made was to treat will and reason as separate faculties. He counters "...that it is one and the same self of which reason and will are alike capacities; that in every moral action...each capacity is exerted as much as the other; and that every step forward in the self-realisation of...man involves a determination of will no less than of reason...."[66]

The sense in which we may speak of freedom for a moral agent is derived from our ability to recognize that there is a difference between a desire for an object--what he terms a "want"--and the consciousness of wanted objects. A want occasions the idea of an object in which self-satisfaction is to be sought. However, "...the transition from mere want to consciousness of a wanted object, from the impulse to satisfy the want to an effort for realisation of the idea of the wanted object implies the presence of the want to a subject which distinguishes itself from it and is constant throughout successive stages of the want."[67] From this arises an idea of a satisfaction of the whole, "...an idea never realisable, but for ever striving to realise itself in the attainment of a greater command over means to the satisfaction of particular wants."[68] This desire or want for satisfaction is the basis for ou distinction between a conception of something that is from what should be. Satisfaction in such terms makes it possible to conceptualize direction of purpose and accordingly makes meaningful a life-plan based upon these desires and wants. In effect, it is not a want or desire which is the motive force or "cause" in all voluntary action, but rather a wanted object.

For Green then a moral agent is one who is partly an animal and partly a rational or self-realising subject. It is the latter aspect of ourselves which allows us to speak of moral agents as in some sense responsible for their actions. Whenever we conceive of an end for action, we are placing forth a "motive" in Green's usage of the word. A motive is an idea of an end of our actions, or more specifically a desire for a personal good. Such a motive could not be based on an impulse, for the object in desire is meant to satisfy a conception of happiness or well-being. When we speak of a human self, reacting upon circumstances, attempting to influence outcomes, creating motives for action, what is meant is "...a certain reproduction of itself on the part of the eternal self-conscious subject of the world,...the product [of which] carries with it under all its limitations and qualifications the characteristic of being an object to itself."[69]

Green's position on the seemingly dual nature of the self--the empirical, animal nature, and the metaphysical or self-conscious nature--is that just as desires, feelings, and thoughts would not be those of a person if they were not related to a subject capable of distinguishing him- or herself from desires, feelings, and thoughts, neither would a person be what he or she is if there were no particular desires, feelings, and thoughts. When someone desires an object and satisfies the want, this constitutes an act of will. This act is free not in the sense that the motive is undetermined, but that the motive is self-generated--that only a self-conscious and knowing person is capable of willing in such a fashion. While consciousness unites these elements, the character of the self-conscious individual plays a crucial role. Character is comprised of dispositions formed largely by an agent's personal history or accumulation of experiences guided by a critical awareness that assesses and thus provides the basis for transcending a personal past. This point here needs some amplification through Green's own summary:

> the form in which the self or Ego at any time presents a highest good to itself--and it is on this presentation that conduct depends--is due to the past history of its inner life; but that, throughout, to make this history there has been necessary an action of the Ego, which has no history, has not come to be, but which is the condition of our being conscious of any history or becoming. The particular modes in which I now feel, desire and think, arise out of the modes in which I

> have previously done so; but the common characteristic of all these has been that in them a subject was conscious of itself as its own object, and thus self-determined.[70]

Moral action is a joint result of character and circumstances; more specifically moral action is the expression of a person's character as it both reacts and responds to circumstances. A character is formed by a conscious presentation of objects as someone's good, as that in which self-satisfaction is to be found. This impulse for perfection constitutes the grounds on which Green can simultaneously hold that we are conditioned by our personal history, but also in a sense apart from it. Self-reform, like all attempts at reform, would not be possible if the present and future were entirely dependent on the past. Green calls this capacity to conceive a better state "a self-distinguishing and self-seeking consciousness" but is essentially, at least as he has previously explained it, the understanding in operation.

To conceive their lives as ends--to conceive objectives--is only possible for beings who can distinguish the actual and possible elements of experience from themselves, and at the same time gather together these elements and relate them to a single self. It is only as we consciously direct ourselves to objects mediated by a conception of a satisfaction that is the precondition of moral agency that allows us to speak of a moral quality. To desire objects without reference to a self which presents to itself a good among other possible good things is not, Green argues, a function of our moral nature. A being incapable of distinguishing between similar and dissimilar human goods--between its own conception of good and of others--not only would indicate a single-mindedness that fails to utilize the conceptual resources that self-consciousness provides, but also cannot be a full or complete agent. Licentiousness, cowardice, obsequiousness, illiberality (or temperance, courage, friendliness, and liberality), as manifestations of actions and feelings, would exist neither for a being lacking self-consciousness, nor for someone who was not interacting with other self-conscious agents. The end toward which our will leads is a conception of happiness and well-being, and it is only when we direct our attention "...to the self-conscious soul, which distinguishes itself from all desires in turn, that such an idea is possible.[71]

2.7. The Self as Individual

The question now is how Green establishes the worth of individuals and thus provides his own distinctive account of individuality. It is necessary to summarize the main points of this chapter before directly addressing this question. It was determined that our intellectual limitations have been employed by liberals to defend individuality, and indeed liberals have always based their politics upon the doctrine of uncertainty. The difference between Green and most other liberals lies in Green's unabashed defence of the epistemic certainty of some key propositions. We noted that Green imports a unifying principle, inspired by his readings of Kant, that creates an ordered experience from the manifold of phenomena encountered in nature. From this unifying principle we have a principle of objectivity which distinguishes what is real from what is not and forms the basis for understanding. The unifying force of the understanding is the medium of a thinking and self-distinguishing consciousness, and moreover is the bridge between affective and cognitive states of mind. The understanding ("reason," "mind," or "ego") is characterised by both consciousness and symbolic activity and the capacity to conceive a better state for oneself as an end to be attained by action, which is self-realization. Altogether these composite elements operate in this manner: the transition from merely feeling a want to the conception of a wanted object implies the presence of a subject which distinguishes itself from the want. This self persists through successive stages of the want (just as the consciousness persists over a series of events) and through successive wants. Thus there arises a conception of a satisfaction of the self as a whole. Now obviously Green will have to draw a distinction between the mind and its activities and the body and its impulses. And yet as he makes clear, while they may be distinguished they cannot be separated, and therefore we have the rationale for his restatement of the relationship between affective and cognitive states of mind. Moreover, there is a unifying principle at work within the individual, something which brings together the personal history of the individual and orders its world. In the end, the basis of individuality is the unity and permanence of human agents who experience discrete and inconstant perceptions and desires.

The implications of the self assembled by Green amounts to this: we are self-distinguishing and self-conscious subjects. Both features of the self allow us to speak of being free, or of possessing a free will. The freedom of self-distinguishing and self-conscious subjects accordingly derives from our critical awareness, our reason or understanding. Important here for the topic of freedom is that while we are not the sole authors of our acts, neither are we determined by nature. We have natural wants and desires and naturally they require gratification in some manner. Nevertheless, the freedom derived from our critical awareness awakens us to the observation that there is a world as it is and a world as it ought to be. The link arises between wants and desires (affective states) and reason (a cognitive state) because, as Green indicates, we never seek to gratify a desire or want but instead seek to gratify a conception of a desire or a want. Reason becomes operative in our actions by directing our desires, and reason too conceives better alternatives to be attained by action. Moreover, reason dictates that we are capable of more than mere momentary pleasures and formulates an idea or conception of a satisfaction of the whole. We now can speak of long-range objectives--of life-plans--and most importantly the ability to conceive objectives and life-plans is the very basis for considering a self as an end.

Green believes that the impulse to be better, the end of self-conscious activity, necessarily depends on the social institutions that influence individuals. While the role of social institutions in the development of individuals is a topic which remains to be examined, this desire to be better has its origin within the individual. Self-consciousness can manifest itself in the desire to conceive a better state for others, but the assessment of a better state of things in the end is derived by the individual utilizing his or her reflective character. Green argues that it is only through "self-reflection" that we can come to understand or know the end or motive of an action. This reflective nature is a crucial and under-appreciated part of Green's conception of individuality. What a contemporary theorist would call "autonomy" Green designates "self-reflection." As he explains,

> ...self-reflection is the basis of the view here given in regard to the distinctive character of the motives which moral actions represent. Any one making this admission will of course endeavour to conduct his self-reflection as circumspectly as possible, and to save it as far as may be from errors which personal idiosyncrasy might occasion, by constant reference to the customary expressions of moral consciousness in use among men, and to the institutions in which men have embodied their ideas or ideals of permanent good. In the interpretation, however, of such expressions and institutions self-reflection must be our ultimate guide.[72]

Ultimately it is the individual who has first to appraise and then to actualize a better state for him- or herself and others. Green is aware that desire and intellect are both a part of conceiving a good; yet while a person who desires is identical to one who understands, to desire is clearly not the same thing as to understand.[73] Reason and understanding stand above desire in that we do not strictly speaking desire objects; rather we assess desired objects in the light of what will satisfy a conception of well-being or happiness. An unmediated desire is simply not possible for a human being.

In moral philosophy the human person for Green is immutable, permanent, and primary. That individuals are capable of seeking satisfaction means that we are objects to ourselves. Nevertheless he is cognizant of the weaknesses of dogmatic individualism, and thus tries to recast the individual as both influenced by and a participant in his or her world and society. More importantly, Green's self-conscious individual is capable of upholding our critical nature while at the same time recognizing that we are situated in a society. While what it is that makes us what we are is largely a product of living in a community with all the interaction between individuals and social institutions such as language, customs, laws and purposes, ultimately we are called on to assess who we are and our place in the community through self-reflection. This critical function is what makes us participants, not bystanders, in nature and society. Green grounds his conception of autonomy in self-reflection, but respects how reason and understanding are individual and in a sense social faculties. Additionally, his defence of individuality makes his statements later found in the Prolegomena such as "[i]t is the very essence of moral duty to be imposed by a man on himself"[74] and that "[e]veryone must make his character for himself"[75] intelligible in the light of his respect for the public character of duties and obligations.

One of Green's main objectives in the Prolegomena was to reestablish the inherent worth and dignity of individuality. Before such a project can be undertaken, it must be clear what it is that constitutes human agency. As persons we have beliefs and desires that dispose us to emote and act in certain ways; altogether these beliefs and desires manifest themselves in a self. This self becomes a human agent when these beliefs and desires are subjected to reassessment. The self in other words can revise its beliefs and desires, the purpose of which constitutes the grounds on which we can speak of being participants in social life. We are aware of many ways in which beliefs and desires can be directed, and yet all the while constrained by a common humanity which circumscribes acts. This is what constitutes a human being. To be an individual is to be aware of other individuals. And the inherent worth and dignity of individuality arises from the recognition that we can and must assess our beliefs and desires according to both personal and interpersonal standards.

2.8. Green's Integrated Liberal Self

If individuality is to have significance, it must minimally denote human beings as separate, discrete selves with unique goals and aspirations. Nevertheless, we cannot really be individuals without recognizing, even appreciating, the extent to which all individual identity is socially mediated, how traditions, cultures, and societies shape and determine individual projects and ideals either by complementing or frustrating individual objectives. For Green, the transformation of a self into an individual occurs when a separate, discrete self--a bearer of appetites and aversions with a reflective capacity or "self-consciousness"--comes to recognize how it is shaped and transformed by the mores, roles, and values received from society and yet struggles to transcend and refashion these influences. Green's examination of self-consciousness is an exploration of the ideal of autonomy, an ideal achieved when an agent develops itself into a position to be aware of the changes and development of his or her character and why these changes came about. Such an awareness enables an individual either to embrace and foster or reject and resist such changes. By making self-consciousness the core of individuality, Green need not deny that appetites and aversions are an important part of individuality while at the same time allowing himself the opportunity to assess the role that meanings, symbols, relationships and values play in the development of individuality.

A full moral agent must have an identity that itself persists through considerable stretches of experience, and moreover integrates and harmonizes complex conceptual systems, ordinary thoughts, actions, and feelings. Green's integrated liberal self accomplishes the following: it is not reducible to mere desires and impulses of which, for the purposes of moral philosophy, little may be said substantively on their own terms; it is a complete moral agent in that it is capable of choice and decision and in principle aware of other agents with the same capacities; it is moreover a unified self capable of accounting for and acting upon a purposive life; and this purposive life expresses a uniqueness and individuality but is not foundationally exclusive of other's needs, desires, and interests. The crucial feature of the self outlined by Green is that it requires interaction with other self-conscious agents and moreover shares with them the capacity for conceptualizing life-plans. Green's integrated self in principle avoids a drastic choice between either the ahistoricism of the individualistic self utilized by Kantians and neo-Kantians or the "encumbered and historical selves" of communitarians.

Green's conception of individuality can be viewed as a mixed success. His theory of the self is one in which an agent gradually transforms itself from a reactive self to a self-motivated and self-willing person by distinguishing between its basic wants and desires and its recognition of a more permanent self to be satisfied by formulating a conception of a personal good or self-satisfaction. Green argues that it is this unique capacity of a person motivated not by wants or desires but rather wanted objects which is the cause of all voluntary action or action we would ascribe to a person. The strength of this theory is that it joins individual character with circumstances and thus retains the sobering fact of contingency without obliterating purposiveness. Moreover, the emphasis on self-reflection and self-reform is a necessary and timely element of a theory of liberal individuality. Self-reform possesses at least as much priority as does social and institutional reform. Finally, Green's reminder that certain goods such as temperance, courage, and liberality not only are objects necessary for a complete theory of individuality, but in addition represent shared goods, accordingly opens the atomistic liberal self to social purposes. Liberals by and large have always considered the individual as a judge of reasons and not merely as a possessor of preferences. In sum, the characteristics of human beings Green deduces are those that make for agency, above all the tendency to form desires and interests, ends and purposes, and the attempt to satisfy and achieve them.

There are, however, both omissions in and weaknesses of Green's conception of individuality. He surely presents a conception of a subject that can form life-plans, possess a sense of itself as a willing agent, and receive and forge values. As a generalization, members of a society in which freedom is elemental require of one another the mutual acknowledgment of these components of agency expressed in Green's account. Yet lacking, at least at this stage, in Green's theory is an explanation as to why a commitment to some life-plans can make other life-plans incomprehensible and hence incapable of broad support.[76] Such an account, as Charles Taylor indicates, would greatly enhance our understanding of intolerance, why some individuals fail to understand (not necessarily accept) the life-plans of others. Also absent is an account of factors that undermine autonomy. For example, why do individuals fail to judge normal causal and inferential connections between objects and propositions? If such lapses are symptoms of the general failure of self-awareness and rationality upon which autonomy depends, then any account that neglects the bases for the failure of rationality is proportionately weakened.[77] Green's accentuation of character indicates that "commitment" is an important component for the validity and integrity of a life-plan, but commitment, at least at this point, provides no schedule or motivational set by which to make comprehensive judgements. Some even deny that the concept of "character" provides adequate grounds in accounting for the continuity of actions which have moral importance for us.[78] Yet Green does provide an account of what makes certain life-plans evoke strong and weak degrees of commitment. The following chapter involves Green's explication of goods or worthy objects of pursuit, his response to commitments.

On balance, Green does effectively challenge a longstanding view that the cognitive process is simply a collection of tendencies, events, or desires, and that the strongest desire at any given moment of time is what motivates action on the grounds that **conceptions** (not **impulses**) motivate individuals to act. This is no small accomplishment in that recent scholarship has expressed some concern over eroding conceptions of individual responsibility in contemporary liberal theory and what is to be done about it.[79] While communitarians have challenged liberal conceptions of agency and individualism, their critique extends beyond the constitution of the liberal self to the objects chosen as necessary to lead a good life. In their estimation, liberalism has no such objects and whatever good derives from objects results simply from autonomous choice--there are either few or ultimately no grounds for distinguishing between competing conceptions of good. This too is a serious--perhaps the most serious--challenge to liberalism, and a thorough analysis of objects necessary for a good liberal life in Green's theory is the next topic.

Endnotes

1. Throughout this essay I will mean the following when I use the terms person, self, human agent, individual, and human being. A person has certain beliefs, desires, and dispositions to emotion and behaviour. These beliefs, desires, and dispositions comprise his self. A self is revisable and not static, and as a result a dynamic and self-revising person is a human agent. As a human agent related to other human agents he or she is an individual. This human agent, acting as an individual among other individuals, is constrained by the parameters set by his humanity, by the fact that he or she is a human being.

2. My use of "individuality" requires a distinction. While it may be commonsensical to treat individuality and individualism as somewhat interchangeable terms, I wish in this paper to draw a distinction between the two. Various recent surveys of the self, for example, Lewis P. Hinchman, "The Idea of Individuality: Origins, Meaning, and Political Significance," Journal of Politics Vol.52, No.3 (August 1990), pp.759-781 and Peter McCormick, "The Concept of the Self in Political Thought," Canadian Journal of Political Science Vol.12, No.4 (December 1979), pp.689-725, presume that it is not problematic to equate individuality and individualism. The problem, baroquely stated, is this: while it may be the case that an upholder of methodological individualism would necessarily defend individuality, it does not follow that someone committed to individuality would necessarily uphold methodological individualism.

3. Cf. his Indivisible selves and moral practice (Edinburgh: Edinburgh University Press, 1991) and Equality, Liberty, and Perfectionism (Oxford: Oxford University Press, 1979).

4. Cf. his Beyond Individualism: Reconstituting the Liberal Self (Oxford: Oxford University Press, 1992).

5. Cf. her Situating the Self (Cambridge: Polity Press, 1992).

6. Cf. Paul Harris, "Moral Progress & Politics: The Theory of T.H. Green," Polity Vol.XXI, No.3 (Spring 1989), pp.538-562; Avital Simhony, "Idealist Organicism: Beyond Holism And Individualism," History of Political Thought Vol.12, No.3 (August 1991), pp.515-535 and "On Forcing Individuals to be Free: T.H. Green's Liberal Theory of Positive Freedom," Political Studies Vol.XXXIX (1991), pp.303-320; and Craig A. Smith, "The Individual And Society In T.H. Green's Theory Of Virtue," History of Political Thought Vol.2, No.1 (Spring 1981), pp.187-201.

7. Cf. Berlin, Two Concepts of Liberty, Laski, Liberty in the Modern State, and Plamenatz, Consent, Freedom, and Political Obligation. Indeed, Plamenatz asserted that idealism in general, including (perhaps especially) Green's, is "...so manifestly absurd..." that what is astonishing about it is that any "...intellectually eminent person..." could have been convinced of its validity, coherence, or meaningfulness.

8. According to Walzer, "[t]he central issue for political theory is not the constitution of the self but the connection of constituted selves, the pattern of social relations." Cf. his "The Communitarian Critique of Liberalism," Political Theory Vol.18, No.1 (February 1990), p.21.

9. For some interesting commentaries on Locke, for example, and the relationship between his epistemology and his political thought, cf. Eugene F. Miller, "Locke On The Meaning Of Political Language: The Teaching Of The Essay Concerning Human Understanding," The Political Science Reviewer Vol.IX (Fall 1979), pp.163-194; Leo Strauss, Natural Right and History (Chicago: The University of Chicago Press, 1950) and "On Locke's Doctrine of Natural Right," The Philosophical Review Vol.61, No.4 (1952), pp.475-502; Morton White, "The Politics of Epistemology," Ethics Vol.100 (October 1989), pp.77-92; and John W. Yolton, Locke (Oxford: Bass and Blackwell Ltd., 1985), Locke And The Compass Of Human Understanding (Cambridge: Cambridge University Press, 1970), and "Locke On The Law Of Nature," The Philosophical Review Vol.67 (1958), pp.477-498.

10. Will Kymlicka, "Liberalism and Communitarianism," Canadian Journal of Philosophy Vol.18, no.2 (June 1988), p.185. Also cf. the introduction to his Liberalism, Community, and Culture (Oxford: Clarendon Press, 1989).

11. Taylor, "Atomism" in Philosophy And The Human Sciences, p.187.

12. Cf. Robert Paul Wolff, The Poverty of Liberalism (Boston: Beacon Press, 1968).

13. Cf. Michael Walzer, "Liberalism And The Art Of Separation," Political Theory Vol.12, no.3 (August 1984), pp.315-330.

14. The relationship between Hegel and a host of British theorists at the end of the nineteenth-century that include Green, but also Benjamin Jowett, F.H. Bradley, Bernard Bosanquet, J.McT.E. McTaggart, and J.H. Stirling, has been explored by Peter Robbins, The British Hegelians 1875-1925 (New York: Garland Publishing, Inc., 1982). The weakness of Robbins's account is his tendency to apply the following to

Green:

> [t]he paradox at the heart of the idealist theory of the state is the implicit denial that the individual's will is his own, combined with the claim that he is most fully and freely an individual when he submits to the sovereignty of the general will. The finite individual, on this theory, is not a stable, "real" entity....As such, the individual is not an entity into himself or herself, but is a fragment of the common moral consciousness which seeks to be reunited in a way which enriches both itself and the whole of which it is a part.

Cf. Ibid., p.79. Green may be caught in the paradox of aligning individual wills with a general will, but as this essay will show, he certainly did not conceive the individual as unstable and unreal. W.D. Lamont also refers to Green as an Hegelian. Cf. his A Century of Moral Philosophy (London: George Allen and Unwin Ltd., 1934).

The issue of whether Green is or is not an Hegelian has received a great deal of attention notwithstanding its rather speculative nature and tertiary importance. It is more accurate to locate Green's inspiration from the classical Greek theorists (who are cited extensively in all of his writings) and not from Hegel (who receives very little formal recognition in Green's writings). Geoffrey Thomas wrote that "[w]hat is striking about Green's intellectual debts is their variety. Green's philosophy is composed of Aristotelian, Kantian, Rousseau-ian and Hegelian elements. No one element is fundamental, and to separate the different elements taxes all analysis." Cf. "T.H. Green: Life And Philosophy" in his The Moral Philosophy of T.H. Green (Oxford: Clarendon Press, 1987).

15. Berlin, op.cit., lvi.

16. Plamenatz, op.cit., p.50.

17. Laski, op.cit., p.41.

18. Flathman, The Philosophy and Politics of Freedom, p.27.

19. Simhony, "On Forcing Individuals to be Free," p.305. Simhony elsewhere has written that the British idealist model of society is organic but of a "non-holistic" kind. British idealism attempts to overcome the individualist/holist dichotomy in order to replace it with what she calls "relational organicism". Relational organicism, she explains, is a reconciling model in which two extreme methodological perspectives of society, i.e., holism (a mechanical whole) and

individualism (an aggregation), are rejected in favour of a perspective which respects their necessary connection. Cf. her "Idealist Organicism: Beyond Holism And Individualism."

20. Gaus, The Modern Liberal Theory of Man, p.21.

21. Jeremy Waldron, "Theoretical Foundations Of Liberalism," The Philosophical Quarterly Vol.37, no.147 (April 1987), p.131.

22. Cf. the "Introduction" and "Some Metaphysical Presuppositions" in Haksar, Equality, Liberty, and Perfectionism.

23. Crittenden, "The Theory of Compound Individuality" in Beyond Individualism, p.67.

24. Ibid.

25. Benhabib, Situating the Self, p.4.

26. Ibid., p.7.

27. Green, Lectures, §27.

28. Ibid., §210.

29. Andrew Vincent and Raymond Plant, Philosophy, Politics and Citizenship: The Life and Thought of the British Idealists (Oxford: Basil Blackwell Publishers Limited, 1984), p.172.

30. Green, "Popular Philosophy," Works III, p.96.

31. Ibid., p.97.

32. Green, Prolegomena, §2.

33. Green, "Introduction II," Works I, §4.

34. Green, Prolegomena, §3.

35. Ibid., §7.

36. Ibid., §8.

37. Green, "Mr. Herbert Spencer And Mr. G.H. Lewes: Their Application Of The Doctrine Of Evolution To Thought" in Works Vol.I, §2.

38. Green, "Introductions To Hume's Treatise Of Human Nature" in Works Vol.1, §169.

39. Ibid., §24.

40. Ibid., §142.

41. Ibid., §342.

42. Green, Prolegomena, §9. There are some affinities between Green's approach to identity and Haksar's. For example, Haksar's non-reductivist self is"...metaphysical as opposed to empirical in the sense that it involves belief in the self as a further fact that is not empirically observable." Cf. "Persons and Personal Identity" in Haksar, Indivisible selves and moral practice, p.1.

43. Green offers this explanation of the ordering function of the mind in his introduction to Hume's Treatise. Of the ordering mind he writes that

> ...it is not a succession of sensations in time that we have to do with at all; that the "real" is an intellectual order, or mind, in which every element, being correlative to every other, at once presupposes and is presupposed by every other; but that this order communicates itself to us piecemeal, in a process of which the first condition on our part is the conception that there is an order, or something related to something else; and that thus the conception of qualified substance, which in its definite articulation is the end of all our knowledge, is yet in another form, that may be called indifferently either abstract or confused, its beginning.

Cf. Green, "Introductions To Hume's Treatise," §125.

44. Green, Prolegomena, §13.

45. Green, "Introductions To Hume's Treatise," §149.

46. Green, Prolegomena, §13. The emphasis is original. It perhaps ought to be noted that G.E. Moore countered that one of the chief defects of idealism is its inherent solipsism, a derivation of the view that subject and object are conceived to be products of consciousness. On this point it needs to be said that Green did not believe nature is a product of consciousness. He goes out of his way to make it clear that a precondition of consciousness is the very recognition that there is a reality external to ourselves. For Moore's objections to idealism, cf. "The Refutation of Idealism" in his Philosophical Studies (Paterson, New Jersey: Littlefield, Adams & Co., 1959).

47. Green, "Introductions To Hume's Treatise," §12.

48. Green, Prolegomena, §19.

49. Ibid., §35.

50. Green, "Introductions To Hume's Treatise," §152.

51. Green, Prolegomena, §34.

52. Ibid., §50.

53. Ibid., §80.

54. Ibid., §57.

55. Ibid., §101.

56. Ibid., §100.

57. Ibid., §130.

58. Ibid., §68.

59. Ibid., §74.

60. Ibid., §76.

61. David Crossley argues that the relationship between the eternal consciousness and the spiritual principle operative in our minds was a difficult one for Green to clarify. The dilemma for Green is this: if the eternal consciousness acts **on us**, then it would be an efficient cause which has a history and thus could not be a-temporal. Crossley believes that Green seems to be pointing toward characterizing the eternal consciousness as a final cause in the Aristotelian sense. Cf. his "Self-conscious agency and the Eternal Consciousness: Ultimate Reality in Thomas Hill Green," Ultimate Reality and Meaning Vol.13, no.1 (1990), pp.3-20.

Craig A. Smith examined Green's unpublished lectures and unearthed some insights on the meaning of the "spiritual principle". Green, Smith reports, describes the spiritual principle as a "Great **energeia**". He employs the word in a somewhat different sense than does Aristotle; for Green it is a "doing", a "realizing", or an "activity". Green takes individuals to have a basic drive for self-satisfaction, which is generated by this spiritual principle or **energeia**. Cf. Smith's "The Individual and Society in T.H. Green's Theory of Virtue," History of Political Thought Vol.2, no.1 (Spring 1981), pp.191-193.

62. Green, Prolegomena, §77.

63. Ibid.,§79. The emphasis is original.

64. Ibid., §85.

65. Ibid., §177.

66. Ibid., §179.

67. Ibid.

68. Ibid.

69. Ibid., §99.

70. Ibid., §102.

71. Ibid., §128.

72. Ibid., §95. The emphasis is mine.

73. Ibid., §129.

74. Ibid., §324.

75. Ibid., §322.

76. Cf. Taylor, "The Person" in The Category of the Person: Anthropology, Philosophy, History (Cambridge: Cambridge University Press, 1985), p.258.

77. Cf. John Christman, "Autonomy and Personal History," Canadian Journal of Philosophy Vol.21, No.1 (March 1991), p.20.

78. Cf. Stan Van Hooft, "Obligation, Character, and Commitment," Philosophy 63 (1988), pp.345-362.

79. Samuel Scheffler argues that opposition to recent liberal programs and policies arose precisely because of diminished conceptions of responsibility. Cf. his "Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics," Philosophy & Public Affairs Vol.21, No.4 (fall 1992), pp.299-323. Another warning shot appeared in Natalie Dandekar's recent article on the right to privacy. She maintains (although these are not her terms) that a "persistent, unified" self is required in order to justify privacy as an important value. Cf. her "Privacy: An Understanding For Embodied Persons," The Philosophical Forum Vol.XXIV, No.4 (Summer 1993), pp.331-348.

Chapter Three:

Individuality and the Good:

The Common Good in Green's Moral Philosophy

3.1. The Self and the Good: The Individual in Society

The previous chapter sought to demonstrate that Green has a distinctive theory of autonomy, one based upon a self-reflective individual who can make intelligible his or her experiences and understand the choices and decisions he or she undertakes. This integrated self is purposive, autonomous, and represents an ideal of full individuality. This individual represents a full positive ideal of autonomy insofar as he or she possesses critical self-directedness, or what Green calls "self-reflection." There are other elements that constitute individuality such as a mastery of language, a capacity to conform with impersonal rules and moral norms, and the resolve and fortitude (or "will" in Green's terminology) to act from the basis of personal deliberation. This kind of individual is ideally situated to uphold certain characteristic liberal public values: of individual liberty and responsibility, of tolerance of change and diversity, and of respect for the rights of those who themselves respect liberal public values. Liberalism requires an account of individuality that can undergird these positive values in order to explain why respect is owed to persons and to justify their privileges of citizenship (civil and political rights). Liberalism, most important of all, stands for the positive value of freedom, the freedom to devise, criticize, revise, and pursue a plan of life, and it calls upon people to respect the rights of others whether or not they happen to share goals and ideals. The previous chapter also intimated that Green's integrated self is one that derives its uniqueness and worth by the choices it makes on the basis of a unified (i.e., not reductivist) and permanent (i.e., developmental) nature, that there is (or are) in principle a moral good (or goods) individuals should strive to attain. What is needed is an account of complete individuality or full autonomy from Green's theory that would assist in determining when and if individual needs, interests, and desires--in short, individual values and ideals--deserve the centrality in general that liberal moral and political theories place on them.

Yet for contemporary liberals, as Lewis Hinchman notes, little attention is "...paid to the potential development of the self and its powers of judgement. That is, the primary purpose of social and political institutions...is to allow individuals to get what they already want, not to induce them to reevaluate their wants."[1] Liberalism stresses the uniqueness of the individual on the capacity for sensation--for appetites and aversions--and the communitarian charge of atomism or reductivism arises from the liberal conviction that appetites and aversions constitute the nature and limits of the self and thus of social and political institutions. Liberal theory, though, has undergone a slow transformation regarding the social and communal aspect of individuals, and the debate over the constitution of the self further raises questions about desires and which objects individuals choose to satisfy needs and interests within the parameters of social and communal life. To this point, Green's account provides a psychological theory according to which our self-understandings always have a social origin however much we individuate the understanding. In Green's theory the mediating force that bridges individual needs, interests, and desires--what I will henceforth call "self-referring ideals"--with those of other individuals is the moral or common good. What makes a self an "absolute end" in Green's account is the formation of an individual that, while in the possession of personal goals and objectives, also can accept as of primary moral importance social cooperation and group membership.

This chapter will argue that Green's conception of the moral or common good respects individuality while at the same time making it possible to explicate and assess an array of shared or common goods, values, and ideals. The chapter will proceed as follows. Section 3.2. addresses the critique against liberalism of "atomism" and "emotivism" by Taylor and MacIntyre and places forth what I consider the basis for these charges. Section 3.3. will explain some of the predominant views of Green's conception of the common or moral good. Paul Harris and John Morrow, for example, maintain that Green cannot reconcile his conception of the good at the same time that he wishes to uphold individuality. I will counter that Green's self-realization ethic in fact offers an account of the common good which respects individuality. It is also claimed, most notably by Craig Smith and David Crossley, that a self-realization ethics cannot generate normative principles. I will also show for Green that this is not the case: he grounds, for example, self-realization in objects on the basis of their permanence. Sections 3.4. and 3.5. examine Green's critique of utilitarianism as an ethical doctrine and explain his criteria for the common good. Sections 3.6. and 3.7. explore and assess Green's importation of virtue into his conception of the common good. The chapter will conclude with section 3.8. by linking Green's integrated self and his conception of the good in order to show how liberal theory would benefit from utilizing his moral theory. Liberals have come under a great deal of pressure to give a more positive or substantive account of the good--and this is precisely what Green wished to accomplish.

3.2. Atomism and Emotivism: Misguided Common Ideals

It would not be inappropriate to suggest that both traditional and contemporary liberals have taken a rather one-sided view of individuality. The individual in liberal thinking is often perceived as a bundle of wants and desires with little attention to the objects of wants and desires. The most focused and sustained criticism against liberal individuality in recent years has arisen from communitarians, and their criticism centers around the values that influence the choices of individuals. The common denominator of recent liberal theorizing is that conceptions of the good are inconsistent with contemporary liberalism's emphasis on neutrality and autonomy. Liberalism is seen as a uniquely privileged doctrine in which no controversial or substantive assumptions are made about the good life of man. As Patrick Neal put it, conceptions of the good for liberals are considered to be shared contingently and aggregatively but not essentially and collectively.[2] Liberal theorists indeed discourage political analysis of moral goods by the use of various constraints on what can be counted as part of legitimate political dialogue and public policy.[3] Communitarians, however, have employed a two-pronged attack against liberal theorists: they have attacked the conception of the liberal self then the conception of politics based upon the liberal self.

As Charles Taylor explains, while a "...self can never be described without reference to those who surround it,"[4] the "expressivist," "punctual", "disengaged," and "unencumbered" self so prominent in liberal thought--in general atomism--denies the possibility of membership in a community bound by moral ties antecedent to choice. The unencumbered self is "[f]reed from the dictates of nature and the sanction of social roles..."[5] and thus conceptions of the good are valued simply because they are chosen. As Taylor phrases it, the liberal self is incapable of making "strong evaluations."[6] This modern self, what Alasdair MacIntyre calls "emotivist," is a self wholly lacking criteria for evaluation. Everything, he explains, "...may be criticized from whatever standpoint the self has adopted, including the self's choice of standpoint to adopt..." and to be a moral agent is to be able to stand aloof "...from any and every situation in which one is involved, from any and every characteristic that one may possess, and to pass judgement on it from a purely universal and abstract point of view that is totally detached from all social particularity."[7] As MacIntyre laments, "[a]nyone and everyone can thus be a moral agent, since it is in the self and not in social roles or practices that moral agency has to be located."[8]

The "liberal vision," according to Michael Sandel, is of a society that does not promote any particular end or ends, but rather one that enables its citizens to pursue their own ends so long as a similar liberty is granted to all. Such a society, he maintains, is not one that presupposes any particular conception of the good. What justifies these regulative principles, Sandel explains, "...is not that they maximize the general welfare, or cultivate virtue, or otherwise promote the good, but rather that they conform to the concept of right, a moral category given prior to the good, and independent of it."[9] This variant of liberalism, continues Sandel, maintains that what makes a society just is not the **telos** or purpose or end towards which it directs itself; what is just in such a society is its very refusal to choose specific purposes and ends.

For Taylor, "[s]elfhood and the good, or in another way selfhood and morality, turn out to be inextricably intertwined themes."[10] Taylor's assessment of contemporary moral philosophy prevalent in the English-speaking world (and by this he means the liberal world) is that "...moral philosophy has tended to focus on what it is right to do rather than on what it is good to be, defining the content of obligation rather than the nature of the good life; and it has no conceptual place left for a notion of the good as the object of our love or allegiance."[11] Taylor, like Sandel, is concerned about a liberal theory that conceives the good only in personal terms. For, as he explains, "...our normal understanding of self-realization presupposes that some things are important beyond the self, that there are some goods or purposes the furthering of which has significance for us and which hence can provide the significance a fulfilling life needs."[12] Nothing could count as a fulfilment in a world in which basically nothing was important but self-fulfilment.

For MacIntyre the good towards which liberalism aspires is the "good of effectiveness" as opposed to the "good of excellence" found in antiquity. Those who subordinate the goods of excellence to those of effectiveness will understand politics and the theory of politics as primarily concerned with how far rival interests can be promoted and contained within a single order. By contrast, politics as a theoretical study for those who embrace the goods of excellence will principally be concerned with how justice can be promoted so as to increase a shared understanding of and allegiance to the goods of a given order, and therefore only secondarily with conflicts of interest. There is another important difference between the two conceptions: justice for those upholding the goods of excellence will be defensible independently of and antecedently to the establishment of the rules of justice dominant in society.[13]

Communitarians in part are at variance with liberals over the significance of individuality. It is on this point about the status of choice and autonomy within individualism that Macintyre and Taylor acknowledge the power of liberalism. The self conceived by modern liberals has no attachments to what Taylor calls "constitutive goods," or for Macintyre to social roles and membership in a family, a city, or a nation. Liberals, they charge, value choice for its own sake, not for the objects chosen. Communitarians interpret liberalism as a theory that excludes an understanding of the self in a community in which the self resides; as a theory which fails to acknowledge how identity is formed from membership in a group; as one which neglects the significance of many preinstitutional social roles and practices either supported or discouraged by communities or groupings. It would appear then that more is involved in the communitarian critique of liberalism than the normative priority accorded to the capacity for individual choice. Communitarians do not criticize liberals for supporting a theory of individualism that excludes an understanding of the self in a community but instead for the type and kind of community of individuals fostered by liberal thinking; they reprove liberals not for failing to recognize how groupings can transform one's sense of identity but rather for the inability to distinguish between "self-regarding" and "subject-referring" motives,[14] and thus for refusing to appreciate the elasticity of the concept of interests; communitarians excoriate liberals not for excluding traditions, customs, and mores in political dialogue but for failing to comprehend that liberalism itself is one such tradition, its contingency at odds with the universalistic standpoint from which it putatively assesses normative claims. In short, communitarians object not to individuality but to the universal myth of a society of individualists.

If, however, contemporary liberalism's weakness is that in instances it fails to touch deeply the personal attachments and hence conflicts over interests and needs between individuals, the evasive and ambiguous character of the concept of individuality in communitarianism remains a problematic as well as the most disconcerting element of the communitarian corpus. It is as if critical reflection for the communitarian is simply liberal artifice and not part of what it is that comprises human nature. The "communitarian self," as Louis Hinchman puts it, is "...in its own way, static and undeveloping, insofar as it is a composite or reflex of the traditions and values that constitute it."[15] Herein lies the danger of communitarianism: if what we are as persons, if what makes us who we are is too closely bound to social roles and social goods, the capacity to reflect upon and criticize ourselves and our community becomes obscured and even obliterated. This is a point brought home by Kymlicka and Crittenden. Kymlicka reminds us that there is a potential for repressive politics in communitarian thought. He argues that a grave weakness of communitarianism is its overly-critical stance toward detached reason and under-appreciation of individual assessments of ends and goals--and thus Kymlicka's defence of liberalism on the grounds that it upholds individuality within the community.[16] As he adds elsewhere, "[t]here is nothing empty or self-defeating in the idea...that communal values should be subject to individual evaluation and possible rejection."[17] For Crittenden, while communitarians criticize liberalism for emphasizing individualism, instrumental relationships, rationality, self-interest, ahistoricism, and individual rights against the common good, he abruptly asks: "Aren't communities as closed to alternative worldviews as atomists are? Aren't the visions of the communitarians merely excuses for like-minded persons to live in a closed world, or for communities to make all persons within them like-minded?"[18]

A student of Green will find a familiar tone to the contemporary critiques of liberalism by communitarians. While the conception of an individual as an absolute end is the product of its capacity for self-reflection, Green reminds his readers that the recognition of individual rights would be impossible unless right "...is so recognized by others, as one which should be exercised, when...others regard it as in some way a means to that ideal good of themselves which they alike conceive; and the possessor of the power comes to regard it as a right through consciousness of its being thus recognised as contributory to a good in which he too is interested."[19] The "power" to which Green refers is the will actuated by a motive (an end or objective of action) to accrue an object in order to satisfy wants and desires. To this point, little separates Green's theory of self-satisfaction from the predominant liberal conception of selves comprised of individuated appetites and aversions. Yet Green attempts to offer an account of the moral, common good consistent with liberal values, one that tries to support autonomy without obliterating affective commitments. For Green there is a bridge between individual desires and wants, a mediating force he calls the common good.

3.3. Green's Individualism and the Good

Moral philosophy for Green has two objectives, one general in nature and the other specific. First, he explains, a moral philosopher "...analyzes human conduct; the motives which it expresses, the spiritual endowments implied in it, the history of thought, habits and institutions through which it has come to be what it is."[20] The purpose of moral philosophy is to examine the conflicting claims of authorities, whether they be familial, tribal, social or political, to our allegiances and reconcile such claims with the demands of individual conscience. Second, Green indicates that what specifically lies at the base of all ethical enquiries is how to draw a distinction between a good will and a bad will. In his estimation, the quality of the will (i.e., individual character) provides a basis for such a distinction. For Green, this enquiry is at the heart of notions such as a moral ideal and moral progress. Yet Green often writes as if conflicting claims of authority and conscience can be resolved on the basis of individuals animated by good-will; in short, that a complete philosophy of character and virtue would be a positive step in the direction of ethical resolutions. In fact, no other element of Green's moral philosophy has occasioned as much controversy as his philosophy of character.

According to John Morrow, Green's liberal concern for the individual could only send him conceptually in one direction. While Green attempted to harmonize what is good for the individual with what is good for all, his individualism led him to deny that the focus of development was the social framework in which individuals were constituted. The "ultimate standard" of assessing what is worthy for individual development was "...an ideal of personal worth..." which in the end is independent of social groupings.[21] For Paul Harris, a weakness in Green's theory of moral progress results from his strenuous individualism. As Harris puts it, if the moral quality of an action depends on the conscious motive from which it was done, and if we can never fully know the motives of others as Green occasionally remarks, "...how then can we say that one person's action is morally better or worse than another's?"[22] Plamenatz is more direct about the flaws of Green's account of assessing moral qualities. As he reasons, the things we call good--virtue, knowledge, affection, beautiful objects--are all states of mind. As such they are all states of one mind, and can never be states of more than one mind. In the end, Plamenatz concludes, "...it is incompatible with the very nature of most of the things which we know are good to be common to two or more persons. For the very reason that they are states of mind, they can be states of one mind only."[23]

Gerald Gaus sees the problems of Green's account in different terms. While Green may have been correct that communal and social sentiments indicate a natural desire to serve others, it remains unclear to what extent social sentiments conflict with the pursuit of individuality. Any theory which postulates self-sacrifices will have to admit that social service may "...very well call for courses of action inconsistent with the maximization of one's own individual development."[24] Therefore, the problem is that a theory which relies upon sacrifices to achieve the common good can in fact work against individuality. Craig A. Smith finds fault not so much with Green's attempt to come to terms with individual and common goods, but rather with his "philosophy of character" which he set against utilitarianism's philosophy of consequence and Kant's philosophy of intention. Not only, Smith reasons, is it difficult to discern what in Green's view constitutes a moral value and what is a valued or desired object, but it is also unclear that a philosophy of character will resolve problems such as what duty is entailed in such and such a circumstance (Kant), or what rule should be followed or action committed (utilitarian consequentialism).[25]

The gravamen of the criticisms against Green's philosophy of character center around the ambiguity of motives in a prescriptive account of action and their verifiability in practice. As David Crossley explains, the vulnerability of Green's self-realization ethic is that it urges us in general terms to become better, or denies that there is a problem in deciding what ought to be done since moral standards are embedded in social practices. As Crossley sums up, "...we need a criterion of the good. There are no external tests for a self-developing creature and no essential potential which ought to be actualized. Insofar as one's potential lies with rationality, this is a formal feature that cannot generate a normative thesis."[26] The purpose of Green's self-realization ethic is to encourage individuals to examine their lives and assess whether they are utilizing all of the capacities and capabilities they possess. If his self-realization ethic awakens in its readers an impulse to reappraise their past and present conduct, then such a development would be a byproduct of his account, not its substance. Green has a thesis of individual virtue which is supposed to complement his account of social virtues, and he attempts to instantiate a common good in the permanence of the objects individuals choose to satisfy desires.

3.4. The Critique of Utilitarianism

One of the express purposes of the Prolegomena is to give a "positive doctrine" in regard to the nature of the good and of moral progress. To this end, Green has two aims: first, he wants to distinguish self-satisfaction as the desired object of a self-conscious agent from the utilitarian conception of happiness; second, and more important, he wishes to show that an individual pursues objects because of their intrinsic superiority, and not simply because he or she at this point in time considers an object to be desirable. Green wants to locate the good for individuals in a common good, what is common to our natures. Approbation or disapprobation of any act of will depends, Green reasons, on the object toward which an individual seeks self-satisfaction. Self-satisfaction is the motive of every willed object, and the desired object receives its form from the character of the person so choosing. The objects of our will--the purposes of our desires--to an extent determine the quality of a person's will. Here, Green asserts, is where we must seek for the basis of the distinction between goodness and badness of will. This issue of distinguishing between various kinds of will was not for Green of mere academic importance. It could not be supposed or presumed that while virtuous individuals always act upon a good that vicious individuals do not. Both virtuous and vicious people regard the objects they seek as capable of giving satisfaction.

For Green, however, confusion abounds over the meaning of concepts such as "satisfaction" and "happiness." He is aware that his use of the concept of "self-satisfaction" can have the vacuousness of similar concepts such as pleasure and happiness. Green's way of making clear his usage of satisfaction is to demonstrate the weaknesses of utilitarianism on the nature of desires, pleasures, and happiness. The criticism of utilitarianism is not, however, directed at its conception of the moral end as the greatest happiness of the greatest number. Rather Green concentrates upon its surreptitious assumption that the object of our desires, the attainment of which gives happiness, is always pleasure.[27] Pleasure, Green counters, is not the object of a motive to fulfil a desire even though it is commonly considered as such. In all desires it is the consciousness of self-satisfaction coupled with the consciousness that in all self-satisfaction there is pleasure which leads to the false doctrine that pleasure is always the object of desire. Instead Green responds in the following manner: if we suppose that pleasure were the object aimed at by a motive to gratify a desire, then it could not be pleasure which results from the attainment of desire. For example, suppose again that we desire an object and that we fulfil the desire for the object. If we do attain the desired object, the attainment gives rise to a feeling of pleasure. Yet the pleasure which accompanies attainment of an end is not the end attained. The fact that we feel "pleased" at having got what we aimed at hardly means that the feeling of being pleased was what we aimed at; minimally, it cannot be assumed that pleasure is the object of a desire. The failure to distinguish between the end or motive of fulfilling a desire and the pleasure which results from attaining that end for Green accounts for the widespread acceptance of the notion that pleasure is the object of our desire.

The notion that pleasure is the object of desire is for Green the chief weakness of Mill's utilitarianism. Mill recognizes desires that are not desires for pleasure--

apparently Green has in mind Mill's elevation of the intellectual virtues[28]--that nonetheless are incorporated into his theory on the ground that the objects of such desires are desired by us as part of our happiness. Yet to say this is to say nothing more than that objects are desired by a self-conscious agent who seeks self-satisfaction and who reflects on desires and pleasures that accompany any particular fulfilment of a desire. Such reasoning leaves the question unanswered as to what an ideal object is. Thus, "[w]e may return then to examine the question whether there is any **intrinsic** distinction between objects willed, on which the difference between a good and a bad will may rest, without allowing ourselves to be stopped **in limine** by a denial of the possibility of such a distinction...."[29]

Green therefore must make clear the difference between his conception of what is good and that of the "hedonists." The question he poses is "...how the true good differs from the merely apparent."[30] The first difference between utilitarians and Green is that for Green the pleasantness of an object depends on its goodness, and not its goodness upon the pleasure it conveys. Pleasure, as so conceived by Green, "...so far as it is a necessary incident of any good, presupposes desire and results from its satisfaction, while according to the Hedonistic view desire presupposes an imagination of pleasure."[31] This distinction has profound implications for Green's view on how the true good differs from the merely apparent. For

> ...we shall naturally distinguish the moral good as that which satisfies the desire of a moral agent, or that in which a moral agent can find the satisfaction of himself which he necessarily seeks. The true good we shall understand in the same way. It is an end in which the effort of a moral agent can really find rest.[32]

Two questions arise from Green's remarks thus far. How does his conception of satisfaction differ from "happiness" as conceived by utilitarians? And what kind of objects in Green's account lead to a more satisfied individual? The latter question, Green responds, cannot be answered in full until we are certain as to the nature of a moral good. This is so because "...the moral good is the realisation of the moral capability, and we cannot fully know what any capability is till we know its ultimate realisation."[33] Green thus chooses to delay answering the question as to the composition of a moral nature until the end of his discussion of the good itself. Since there exists a better state of things, there must be a best state of things. At this point, he presumes that "...we know enough of ultimate moral good to guide our conduct; enough to judge whether the prevailing interests which make our character are or are not in the direction which tends further to realise the capabilities of the human spirit."[34]

That people are capable of seeking self-satisfaction means that they are objects to themselves. In principle then some kind of self-objectifying force is operative in consciousness. There must be, Green explains, "...some perfection which has to be attained, some vocation which has to be fulfilled, some law which has to be obeyed, something absolutely desirable, whatever the individual may for the time desire...[h]owever meagrely the perfection, the vocation, the law may be conceived...."[35] Green believes that exploring the kinds of objects necessary for a moral life would be more meaningful if we examine how it is that the idea of a possible better state of things, coupled with the realisation of capabilities (i.e., the will making operative the motive formed by reason), has in fact been a moralising agent in human life. The standards established in our social life, and our loyalty and maintenance of such standards, is for Green the condition of individual goodness and moral progress. Reflection upon the self and its surroundings gives us definite but potential conceptions of a "good," and the direction and content of this good has formed in the minds of men and women in the social and political institutions received from our predecessors.

The parallel between Green's conception of self-satisfaction and that of utilitarians is that both consider individuals to be subjects of successive desires and pleasures. What distinguishes the two doctrines is Green's insistence that the motive to act is determined by the conception of a self and its direction to self-satisfaction and not upon the strongest desire. Moreover, the difference between Green and utilitarians is a difference between a theory which conceives rational activity solely at the levels of means and ends, whose only standard of rationality is efficiency, and another based on a conception of rational activity beyond that of ends and means and other standards beside that of efficiency. Even if it is accepted that individuals are motivated to act on the basis of pleasure, "[i]t is clear that desire for a well-being as consisting in a succession of pleasures to oneself, is quite different from desire for a well-being that consists in a succession of pleasures to others."[36] The distinction between individual well-being and social well-being forces Green to turn his attention to the manner in which utilitarians conceive of a society of individuals. For Green, the saying made popular by utilitarians that "a nation is merely an aggregate of individuals" is both fallacious and inconsistent. The fallacy lies in the implication that individuals could be what they are, or could have their moral and spiritual qualities, independently of their existence in a nation. "Social life," in a famous phrase, "is to personality what language is to thought." The precept that the nation is solely comprised of its individual members is also inconsistent with the utilitarian maxim of generalized happiness since the utilitarian conception of happiness individuates its conceived good. As Green counters, "[i]t is in fact only so far as we are members of a society, of which we can conceive the common good as our own, that the idea [of self-realisation] has any practical hold on us at all...."[32] Membership in a society, Green holds, illuminates the boundaries of individual fulfilment and implies a confinement in the realisation of individual perfection and satisfaction. Moreover, "...human society presupposes persons in capacity--subjects capable each of conceiving himself and the bettering of his life as an end to himself--but it is only in the intercourse of men, each recognised by each as an end, not merely as a means, and thus as having reciprocal claims, that the capacity is actualised and that we really live as persons."[33]

Yet, Green cautions, while a moral capacity can only be formed by the traditions, institutions, and laws that make up a nation or society, a nation has no existence apart from the individuals who comprise a nation or society. For example,

> ...we shall see upon reflecting that there can be nothing in a nation however exalted its mission, or in a society however perfectly organized, which is not in the persons composing the nation or society. Our ultimate standard of worth is an ideal of **personal** worth. All other values are relative to value for, of, or in a person. To speak of progress or improvement or development of a nation or society or mankind, except as relative to some greater worth of persons, is to use words without meaning.[34]

For Green then the role of habits, institutions, and laws within a society are crucial to individual development. Nevertheless, habits, institutions, and laws are the expression of the sentiment and the character of the individuals comprising the society in that such social instruments represent the generic need for ordered interaction. The manner of perfection and realisation of possibilities of individual development is embodied in the spirit of the nation. "If the fulfilment of the idea [of perfection] is necessarily incomplete in [individuals], it can be no more complete in the national spirit, which has no other existence, as national, than that which it has in them."[35] Socialization by language, laws, customs, habits, and roles is an important component of the development of individuality. According to Green, society is founded on mutual interests, and its foundation is the treatment of all persons as ends. In the absence of this recognition of individuals as ends in themselves, there can be no society to speak of. Only within a society can we actualize all of the individual capacities and capabilities, and it is only within a society that we can give meaning to the idea of an end of human development.

3.5. Green on the Moral Good

By a moral ideal Green apparently means some type of person or activity which can be considered as an end in itself, and that ends or objectives define themselves gradually in the establishment of recognized duties and virtues and thus are constitutive of a common good. The recognition of an absolute good is a product of what Green calls our "better reason." Reason plays a crucial role in social life, for if, Green argues, we are conscious of ourselves and of others, then through reason we can seek to make the best of ourselves and others. As he further explains, "...an agent merely capable of seeking the satisfaction of successive desires, without capacity for conceiving a satisfaction of himself as other than the satisfaction of any particular desire, and in consequence without capacity for conceiving anything as good permanently or, on the whole, there could be no possibility of judging that any desire should or should not be gratified."[36]

Green's position is that the possibility of moral judgments implies some idea of a good, but the idea is not that of any particular pleasure or satisfaction. Individuals are the permanent subjects of successive desires and of successive pleasures, and the determination of desire is by the conception of self and its direction to self-satisfaction. As Green explains,

> [i]n truth a man's reference to his own true happiness is a reference to the objects which chiefly interest him, and has its controlling power on that account. More strictly, it is a reference to an ideal state of well-being, a state in which he shall be satisfied; but the objects of the man's chief interests supply the filling of that ideal state.[37]

The idea of a good is the idea of some object that will satisfy desire, but is not necessarily based upon pleasure. The fact that one reflects on desires implies that a subject can distinguish him- or herself from the desires. Utilitarians mistake the desire to satisfy oneself in the attainment of objects for a desire to satisfy him- or herself with the pleasure deriving from the attainment of objects. Thus, happiness or well-being is the realisation of the objects in which we are mainly interested, and not the succession of pleasure which derive from the objects. One such ideal object that Green has in mind is the idea of a family.

The evocation of the family as an example of a good in principle common to all is certainly disputable. For example, Green asserts that the institution of the family presents people with "...an ideal of a social good--of a good not private to the man himself, but good for him as a member of a community."[38] Most obviously it can be countered that the family represents at most a personal and not a common good. For Green, though, the idea of a family represents an idea of good in that it (1) excites a strong interest and at the same time (2) represents a permanent object, one that ultimately transforms individual interests. According to Green an important element of a conception of good is that it presents to individuals an idea of satisfying a basic interest while at the same time it represents an object to which an individual may harmonize his or her long-term plans and commitments with others. If this is all Green meant by the family being a "true good," an idea of satisfaction derived from objects of greater permanence on the condition that the objects also satisfy those in the community with whom he or she lives, then what is disputable is Green's choice of words and not the position itself.

The family represents an ideal object to be attained and also ideals such as devotion, sacrifice, and love. The family for Green thus represents a personal good--it fulfils an individual desire--but also shapes and influences other virtues. Courage and integrity, for example, together work upon an individual insofar as it often takes courage to defend the decisions and actions of family members--to stand by their side as it were--and offers the opportunity to demonstrate integrity when other member's interests, needs and desires can be shunted when one is presented with the option of an easy appeal to self-interest. The parallels Green envisions between the family and the nation, state, and church is that each represents an institution social in nature, institutions that can transform an individual's own life-plans and commitments in light of their specific requirements. A permanent well-being, Green argues, is necessarily a social well-being for it "...gives rise to the idea of such a good, and because the thought of himself as permanent is inseparable from an identification of himself with others, in whose continued life he contemplates himself as living...."[39] As a consequence, Green reasons, "...the objects which the effort to realise this thought brings into being, and in contemplation of which the idea of permanent good passes from the more blindly operative to the more clearly conscious stage, are arrangements of life, or habits of action, or applications of the forces and products of nature, calculated to contribute to a common well-being."[40]

Green's essential position on the good is that when an equivalence occurs between a conception of individual well-being and an order of life which allows us to speak of such a thing as general well-being, of a better way of life, there arises a good common to all. As he explains, the idea of a well-being will be the idea of someone living in the pursuit of various interests which the order of society has determined for him or her.[41] Such interests in social institutions, once realised, take their place as permanent contributions to an abiding social good because an individual "...anticipates a lasting and accumulating possession, as he cannot do in successive enjoyments. In them he can think of himself as really coming nearer to an absolute good. Just so far as he is interested in such objects, he must indeed anticipate pleasure in their realisation, but the objects, not the pleasure, form the actuating content of his idea of true well-being."[42]

What we desire in locating our own true good or permanent well-being, Green explains, is the same type of good or well-being in others. It is a common well-being, "...the same good of a society which we also desire as our own."[43] The objects desired in order to realise well-being are those which would be necessary for the well-being of society. As he sees it, "[t]he opposition of self and others does not enter into the consideration of a well-being so constituted."[44] Such a common good is formulated by an individual, but the conception is not one that distinguishes between what is good for the self and others. As a motivating force of moral action and judgment, the common good is independent of the desire for individual pleasure and the desire to please others.[45]

3.6. Green on the Common Good and Virtue

Green's defence of a common good began with the presumption that the motive or cause of all voluntary action of individuals is a wanted object and not a want, the object being something which involves the operation of a purposive and intelligent subject. A society, Green further insists, is founded on the mutual interest in treating each human being as an end, for in the absence of "...each recognising the other as an end in himself and having the will to treat him as such, there can be no society."[46] Clearly the presumption for Green of a common good is that "...every human person has an absolute value; that humanity in the person of every one is always to be treated as an end, never merely as a means; that in the estimate of that well-being forms the true good every one is to count for one and no one for more than one; that every one has a **suum** which every one else is bound to render him."[47] True happiness, Green maintains, consists in the realisation of objects the interests of which can only be identified within a society. It would seem to follow then that true happiness consists in the realisation of the same objects for oneself as for others. When harmonization occurs between individual long-term interests, such a development is the product of a "good will," a "...will to conform to a universal law for its own sake or because it is conceived as a universal law."[48]

While Green drew a sharp contrast between his doctrine and that of utilitarians, he really envisioned his project more as a corrective to than as a critique of J.S. Mill's doctrine of utility. Given that we distinguish between higher and lower pleasures, it would follow that what we desire is not pleasure as such but pleasure as an incident of a life of which the value or desirability of the life does not consist in the pleasure. This type of life can only be attained by focusing our attention on more permanent objects, for happiness cannot be attained in a succession of pleasures. As Green succinctly pointed out elsewhere, the man who has been pleased a million times has no more of the supposed chief good of happiness than the man who has been pleased a thousand times.[49] It is for Green an essential condition of happiness that it should bring the person closer, as objects desired solely for their pleasantness cannot, to the completion of individual capabilities. Pleasant states are momentary unlike objects chosen on the basis of their permanence. We may never be able to experience an ultimate well-being, and we may never be able to give a fully adequate account of such an ideal, but we can and do assess and appraise particular forms of life and action as better, or as capable of contributing more to individual well-being, than others. The idea of the good acts "...as a demand which...arrives at a more definite consciousness of its own nature and tendency through reflection on its own creations--on habits and institutions and modes of life which, as a demand not reflected upon, it has brought into being."[50]

This interest in desirable objects is part of individual nature but also is the product of our social habits and institutions. The standards of praise and blame, of societal approbation and disapprobation, resulting from the evolving conception of the good life Green calls the "propagation of virtue." Such virtues arise from the distinction drawn between goods of the body and goods of the mind or soul, the former being part of but subordinate to the latter. The virtues he has in mind include courage, wisdom, fidelity, and desert. Such virtues meet one criterion of the good in that they are goods common to all people but not goods in which competition may occur. That is, courage, wisdom, fidelity, and desert can be attained without a concomitant loss for someone else. These virtues satisfy two criteria for assessing the worthiness of particular virtues in that (1) they are good for all people and (2) no one can gain by another's loss, gain and loss being estimated on the same principle for each.[51] The two criteria together discourage actions or acquisitions that "...would be gained at the expense of any one else, however indifferent to him personally, however separated from him in family, status, or nation."[52]

According to Green, ...the only good which is really common to all who may pursue it, is that which consists in the universal will to be good--in the settled disposition on each man's part to make the most and best of humanity in his own person and in the persons of others."[53] Thus far Green's defence of a common universal will towards which our desires ought to be directed is Kantian. Yet the introduction of an ethic of virtue alters the tone and meaning of Green's understanding of the universal will. He sees affinities between the universal will and the Greek conception of virtue, the latter deriving from the "...great principle that a direction of a man's will to the highest possible realisation of his faculties is the common ground of every true form of virtue."[54] What is valuable about virtue is that it derives from character, not good fortune; from the fulfilment of human capabilities within, and not from without; from its function as a product of character, and not as a possession. Green greatly admires Kant's dictum of the good will, but recognizes that its abstract character could mean that the good will "..would no longer be the will of the good workman, the good father, or the good citizen."[55] The Kantian self could become a self completely disengaged from nature and society.[56] He instead wishes to maintain "...that the perfection of human character--a perfection of individuals which is also that of society, and of society which is also that of individuals--is for man the only object of absolute or intrinsic value...."[57]

Green thus directs us to Greek conceptions of virtue. In Greek antiquity are conceptions of virtue based on a systematic order of living both for individuals and communities and articulated schemes of virtue and duty he believed were absent in the theorising of his day. The estimation of virtue for Green, praise and blame, has reference to individuals, not to anything advantageous to individuals. The disadvantage under which the Greeks had to theorize, Green argues, was the limited conception of human possibilities. He suggests that part of the decline of virtue ethics was the result of the recognition of greater human possibilities; and thus we have a more complex array of virtues to explore and systematize. Yet the strength of the Greek conception of virtue was that it was animated, as it were, by a "disinterested interest" in the good; that it was conceived as a necessary product of social life; and that virtue was to be the full realisation of individual capacities. It is virtue as the full realisation of all capacities that "...distinguishes the doctrine of Plato and Aristotle from any form of Hedonism, or of Utilitarianism so far as Hedonistic. The condition of virtuous action according to them did not lie in its production of a certain effect, but in its relation to a certain object, as rationally desired by the agent...."[58]

"Modern virtue", as Green deems it, is "more complete" in contemporary times than in antiquity in that the attainment of the true good today presents itself to people under new forms.[59] Green has in mind the demand for a wider conception of good for all of humanity and not just for a given **polis**. In particular, self-devoted duties towards others represent objects in which there has been a qualitative change in thinking between classical and modern conceptions of virtue. For Green, self-devotion to others is like the "moral heroism" prized in antiquity and embodied in the citizen-soldier. It is precisely the view of life embodied in self-devotion to others that for Green represents an improvement over classic conceptions. All lives are invested with value today in virtue of their capabilities, and not strictly estimated with reference to the purposes of the polity.[60] Green specifically has in mind the degradation of women throughout the centuries, and the efforts undertaken by men and women in his era to improve and rectify social conditions.[61]

Green discerns a two-fold "development of morality," as he calls it, from ancient to modern thinking. The first development is the gradual extension in the range of persons recognised as persons, i.e., as sharers in a common good. The second is the complementary deepening of the conception as to what this common good really is. For example, Green maintains that self-denial is a higher form of virtue than Greek temperance not because there is renunciation of pleasure involved--he was not an ascetic--but rather on the grounds that the renunciation demonstrates a state of character attracted to permanence and individual development within society. Modern life is more complex, and sacrifices Greeks made are less worthy in that the possibilities of human development have expanded. Such a development is the wider call on behalf of a much broader conception of community in which positive help is due to all men and women. In sum,

> [h]uman society indeed is essentially a society of self-determined persons. There can be no progress of society which is not a development of capacities on the part of persons composing it, considered as ends in themselves. But in estimating the worth of any type of virtue, as implying or tending to bring about a realisation of man's spiritual capacities, we must not enforce our view to some particular group of men exhibiting the virtue.[62]

Ancient Greek thinkers were the first to systematize the forms of life embodied in social requirements and expectations as well as in conventional conceptions of praise and blame. They too were the first to reflect upon these modes of living, reject what is temporary and accidental, and retain the essential ideal of good and virtue. They were nevertheless "...necessarily limited by the actual state of human society."[63] "Human brotherhood," Green explains, had no meaning for them, whereas such a conception may have been the root axiom of ethical reasoning in Green's day. Such a developing interrelationship between all men and women is the ground of social development. Social development implies an interest in an object common to all, something of which there can be no competition between people. The only interest that satisfies this condition is the perfecting of individual capacities--and thus Green's definition of the good as the "...realisation of the powers of the human soul or the perfecting of man...."[64]

In Green's view, a society founded on the self-subordination of each individual to the rational claims of others would not have come into existence except through a desire for an object common to all. For Green, this society is a society of individuals all acting as persons capable of aiming at a good and thus in principle the proper subjects of rights. Reason is the basis for society because it is the source of the establishment of equal, practical rules in a common interest, and of self-imposed subjection to those rules. As a result of this faculty arises

> [t]he idea...of a possible well-being...that shall not pass away with this, that, or other pleasure; and relation to some group of persons whose well-being he takes to be his own, and in whom he is interested in being interested in himself--these two things must condition the life of any who is to be creator or sustainer either of law or of that prior authoritative custom out of which law arises. Without them there might be instruments of law and custom; intelligent cooperating subjects of law and custom there could not be.[65]

Through the formation in people's minds of a conception of what this object is, it is clear that the object is not to be regarded as the exclusive property of a minority. There is one condition this idea must fulfil: [i]t must be a perfecting of man--not of any human faculty in abstraction, or of any imaginary individuals in that detachment from social relations in which they would not be men at all....[66]

3.7. Green and the Ethics of Character

Green states in the Prolegomena that the theory he wishes to defend "...is one that would found a supposed duty, and a supposed possible effort, on the part of the individual to make himself better, upon an ideal in him of a possible moral perfection, upon a conception actuating him of something that he may possibly become as an absolute end in himself."[67] He notes that the question for moral philosophy usually is "What ought to be done?" He speaks of two senses the question can be taken to mean: (1) what ought an action to be as determined in its nature by its effects, and (2) what ought the action to be with reference to the state of mind and character which it presents? He calls the former question the "narrower" sense of the question of what ought to be done, and the latter the "fuller".[68] Yet in the end Green writes that the question "What ought to be done?" is one which can have no answer supplied. Ultimately, if the idea of goodness carried with it a full recognition of its final realisation, then the distinction between an idea and its realisation would collapse. In the way that a consistent determinism ultimately undermines the study of man, a moral philosophy that parades itself as the beacon of the good would undermine the study of morals. Instead, Green asks "What ought I to be?" as the question which can be supplied with an answer. What is required to assess such a question, he explains, is a "self-questioning conscience." For Green, "...the state of mind which is now most naturally expressed by the unspoken questions, Have I been what I should be? Shall I be what I should be, in doing so and so? is that in which all moral progress originates. It must have preceded the formation of definite ideals of character, as well as any articulation of the distinction between outward action and its motives."[69]

The self-questioning conscience is paramount for Green. The very essence of a moral duty is that it be imposed by someone on him- or herself and not by an external source. Yet the capacity to criticize cannot neglect the public character of duties and obligations. If, as Green explains, "private opinion" as against the demands of authority

> ...is more than a conceit which it is pleasant to air; if it is a source of really conscientious opposition to our authority which equally appeals to the conscience; if, in other words, it is an expression which the ideal of human good gives to itself in the mind of the man who entertains it; then it too rests on a basis of social authority. No individual can make a conscience for himself. He always needs a society to make it for him.[70]

Green's counsel for the practical application of his doctrine is that each person ought to assess societal conventions and determine whether their own convictions represent a "truer effort after the highest ideal" than that which is to be found in the institutions themselves. A minimal rule does apply in such an exercise. Whatever definition of good is formulated, "...he should admit the equal title of all men to it in the same sense; that account should be taken of the wisest possible range of society...; and that whatever is deemed good for any class or individuals in the society should be deemed good for all its members."[71] Such a conception of what is good also must be preceded by a principle of self-development from which someone

> ...is capable of being moved by an idea of himself, as becoming that which he has it in him to be--an idea which does not represent previous experience, but gradually brings an experience into being, gradually creates a filling for itself, in the shape of arts, laws, institutions and habits of living, which, so far as they go, exhibit the capabilities of man, define the idea of his end, afford a positive answer to the otherwise unanswerable question, what in particular it is that man has it in him to become....[72]

Green nonetheless is aware that there is a potential either for conformity to established mores, customs, and traditions, or complete license to criticize everything and thus depart entirely from social roles and customs. He believes that the guiding idea of an absolutely perfect life can moderate both possibilities. Such an idea tells us that there must be such a life as distinct from what life actually is; and an idea of a perfect life informs and shapes our actual practices. Both the individual and the members of the society formulate and eventually benefit from the conception of a state of better things. For Green, such a conception is antagonistic neither to the individual nor society since both attempt to fulfil the same vocation. Green specifically mentions the virtues of bravery, temperance, and justice as virtues that are part of a conception of a more perfect life that ought to be considered social rather than individual goods. At its most general level, Green offers the following practical expression of a theory of the ultimate good and self-realization. The question that individuals must ask themselves is whether a particular law, convention, or habit, directly or indirectly contributes to the better-being of society. And this can be measured and assessed by whether a law, convention, or habit is favourable to the attainment of recognized excellences in persons without in any fashion detracting from the opportunities of others.

3.8. The Self, Individuality, and Social Life

Individual well-being must be identified in some manner to an order of life. The basis for the relationship between individual well-being and social well-being is this: a true good (and hence true happiness) is derived from reason, which is both a faculty of rule-making in the common interest and a self-imposed duty to the rules. Reason directs us towards objects the interests of which can only be identified in society, and a true happiness would consist in the same objects for all. This true good derives from an object which arouses a strong interest in its attainment, and possesses the characteristic of permanent satisfaction. The previous chapter demonstrated that ultimate value resides in the individual, but we can now add here that such value resides not in individuals solely but in individuals in either a society or a community. Moreover, it is not sufficient to be morally good that an action should develop a human faculty or promote more perfect social relations. The goodness of an action as well as the goodness of an individual does not depend upon some kind of excellence derived from social traditions, customs, roles, or mores; the ideal society still remains a society of full persons, and the one element in it of absolute intrinsic value and worth is personal character.

What is realised in Green's conception of self-realisation are systematic structures of desire in increasingly integrated wide-interest systems, i.e., life-plans. He maintains that an individual good is a conception of an individual desire in principle social in nature. To actualize our self-conscious natures and participate in the development of unrealised talents and capacities is a life qualitatively better than one wherein talents and capacities are thwarted. That Green speaks of moral progress suggests not any deterministic vision of a perfect world in the distant future, but a conception of progress based on ideals of self- and institutional reform by an agent that assesses life-plans and social institutions either by their impact on the lives of individuals or by their own principles. Inconsistent with the idea of moral progress is a society that espouses equality and the development of capacities but at the same time maintains a rigid class structure. Equally incongruent with moral progress are individuals incapable of conceiving that their acts affect others or who abuse authority.

Insofar as individuality is concerned, lives are invested with value in virtue of their capabilities and not estimated strictly with reference to the purposes of the society. The development of an individual into a self requires an awareness of oneself as someone different from others. Such recognition could only arise in a context where there are relationships with others. For Green, the growth and maintenance of individuality is a result of mutual support and development between individuals who are members of a shared life. This means that there are common objects individuals ought to pursue, but embodied in a vision of the good life moderate in application. The view of critics such as Harris and Morrow, for example, that Green's conception of the good is flawed because of its reliance on individuality are mistaken. For Green the good will has to be articulated in terms of the object pursued. An object is not good because a good will pursues i[illegible] because the will pursues an object that is known to b[illegible] [illegible]he quality of the objects pursued separate a virtuous [illegible] vicious individual. What then does Green mean by virtuous and morally good? We do not apply moral superlatives to objects such as cars and trees, but only to purposive, self-conscious agents. Virtue and moral goodness pertain to subjects, and someone is called virtuous or good in so far as he or she wills to produce a certain state of affairs. A virtuous or moral act has a public character to it; it is not private, for its very recognition by others confirms the public character of virtuous or moral acts.

There are both strengths to and weaknesses of Green's argument in support of a common, social good in his moral philosophy. Most obviously, one could take issue with his idea that social development is based on the pursuance of an object common to all. Even though at various places Green reminds his readers that persons must be allowed to pursue different talents, opportunities, functions, and abilities[73]--which indicates the possibility of the pursuance of life-plans either unintelligible or obtuse to others--his argument suggests that the commitment and legitimacy of a particular life-plan is contingent upon its recognition and acceptance by others. The claim that one criterion of the good is that people pursue objects common to all and that such goods are not attained by competition unduly restricts some life-plans. That a good is attained by competition by itself is not grounds for condemning the good. Moreover, the edifice Green constructed in support of individuality may convince some and hopefully most of the worthiness of persons as individuals, but admittedly there remains a gap in Green's account as to why some would fail to accept the ultimate worth of persons and individual projects. As push-pin is as valuable as poetry, so too exploitation as magnanimity.

However, there are some notable strengths. To state the obvious, Green's "...moral theory is ultimately and fundamentally goal-based and...good is decidedly prior to right for him."[74] It was determined in the first chapter that for Green self-conscious moral agency derives from a rational nature. We can distinguish ourselves from others, and we can distinguish between wants and conceptions of self-satisfaction. This reflective capacity represents the basis for individual worth. We are reason-bearing creatures, it is true, and from this capacity we derive permanent and not transient conceptions of satisfaction. We are to treat all equally because each person has the capability to become better. The idea of the true good for us has five elements: (1) it excites a strong interest; (2) the interest activates our will; (3) this interest is deemed as conducive to our own self-permanence; (4) objects chosen are ones which facilitate permanence; (5) and the true good is an idea derived from objects of greater permanence. A result of this notion of a true good is an expansion of meaning behind arrangements of life and habits of action--of life plans. The attempt to systematize and prioritize desires within a structure is never a meaningless project, and the five elements that comprise a true good allow for a distinction between what we may call "first- and second-order" desires, desires in the first instance basic to an individual's life-plan and in the second tertiary.

The significance of Green's account of the common good derives not from what it asserts about particular goods or virtues but rather in what it implies about situated individuals. The complete moral agent for Green is supposed to remain somewhat detached from his or her particular conception of the good, for a complete moral agent possesses both the ability to conceptualize a good and the capacity rigorously to assess the worth and value of each concerned good. This value of assessing life-plans comprises the liberal traits of character or liberal virtues Green is encouraging. Such traits or virtues include reflectiveness, tolerance, flexibility in the face of social and personal change, self-control and self-criticism, a commitment (perhaps even an imperative) to engage in dialogue with others, and a willingness to revise and shape conceptions of good or life-plans in order to respect those of others or in response to new insights into one's own character and ideals. The self-realization ethic has clear parameters insofar as individual needs, interests, desires, and expectations are concerned. Such interests within society cannot be particularized to the point where desires and expectations possess only self-referring qualities (i.e., selfishness) and are actualized at the expense of others (i.e., exploitative). Green's account of the complete moral self thus prescribes a normative constraint on the extent to which we should develop a critical distance towards the social institutions that influence us.

Virtuous characters and activities for Green represent goods common to all, goods in which competition is not possible. Virtue fills the void left by the Kantian universal will, a will that Green knows is far too abstract but the spirit of which is noble. All individuals are invested with worth in virtue of their capabilities, and not strictly estimated with reference to the purposes of any given society or community. That the good is prior to right for Green means, then, that rights can be sacrificed for the sake of the general good. Green does circumscribe rights, and his theory thus forces individuals who insist that their needs, interests and desires be met into the public realm of justification. Green's account seeks to provide conditions for public justification; it searches for reflective justification (good reasons) but it also seeks reasons that can be widely understood to be good by persons such as they are. Public justification does not, at least in Green's theory, work down from a prior, philosophical standard but instead counsels individuals to articulate a system of individual qua social principles that most can see to be reasonable and necessary. In order to understand what transformations occur when individuals are placed in a political setting or public arena we must turn our attention to his political thought in the Lectures.

Endnotes

1. Hinchman, "The Idea of Individuality," p.759.

2. Patrick Neal, "A Liberal Theory of the Good?" Canadian Journal of Philosophy Vol.17, No.3 (Sept. 1987), p.572.

3. Richard Rorty has taken one step further in the ongoing debate between liberal political philosophy and moral philosophy. Can, Rorty asks, a comprehensive philosophical outlook hold self-creation and justice, private perfection and human solidarity, in a single vision? His answer is no: the vocabulary of self-creation is, Rorty maintains, private, unshared, and unsuited to argument. The vocabulary of justice is public and shared, but a medium for argumentative exchange. This is why a liberal society, he contends, is badly served by an attempt to supply it with philosophical foundations. For Rorty, liberal culture requires an improved self-description and not a set of foundations. Cf. "The contingency of a liberal community" in his Contingency, irony, and solidarity (Cambridge: Cambridge University Press, 1989).

4. Taylor, Sources of the Self, p.35.

5. Sandel, "The Procedural Republic And The Unencumbered Self," pp. 89-90.

6. Cf. Taylor's "What Is Human Agency?" in Human Agency And Language: Philosophical Papers 1.

7. MacIntyre, After Virtue, p.30.

8. Ibid.

9. Sandel, "The Procedural Republic And The Unencumbered Self," p.82. The right is prior to the good for Sandel in two ways:

> ....the priority of the right means, first, that individual rights cannot be sacrificed for the sake of the general good (in this it opposes utilitarianism), and, second, that the principles of justice that specify these rights cannot be premised on any particular vision of the good life. (In this it opposes teleological conceptions in general.)

10. Taylor, Sources of the Self, p.3

11. Ibid.

12. Ibid., p.507.

13. Cf. "The Division of the Post-Homeric Inheritance" and "Liberalism Transformed into a Tradition" in MacIntyre's Whose Justice? Which Rationality.

14. Cf. Taylor, "Self-Interpreting Animals," Human Agency And Language, p.57.

15. Hinchman, "The Idea of Individuality," p.762.

16. Kymlicka, "Communitarianism and the Self" in his Liberalism, Community, and Culture.

17. Kymlicka, "Liberalism and Communitarianism," pp.188-189.

18. Crittenden, Beyond Individualism: Reconstituting the Liberal Self, p.161.

19. Green, Lectures, §25.

20. Green, Prolegomena, 327.

21. Morrow, "Liberalism And British Idealist Political Philosophy: A Reassessment," p.94.

22. Paul Harris, "Moral Progress & Politics: The Theory of T.H. Green," Polity Vol.XXI, no.3 (Spring 1989), p.558.

23. Plamenatz, Consent, Freedom, And Political Obligation, p.72.

24. Gaus, The Modern Liberal Theory of Man, p.105.

25. Smith, "The Individual and Society in T.H. Green's Theory of Virtue," p.193.

26. Crossley, "Self-conscious Agency and the Eternal Consciousness: Ultimate Reality in Thomas Hill Green," p.19.

27. In Mill's words:

> The creed which accepts as the foundation of morals "utility" or the "greatest happiness principle" holds that actions are right in proportion as they tend to promote happiness; wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure and the absence of pain; by unhappiness, pain and the privation of pleasure....[p]leasure and freedom from pain are the only things desirable as ends; and that all desirable things (which are as numerous in the

> utilitarian as in any other scheme) are desirable either for pleasure inherent in themselves or as means to the promotion of pleasure and the prevention of pain.

Cf. J.S. Mill, Utilitarianism, Oskar Piest, ed. (New York: The Liberal Arts Press, 1957), pp.10-11.

28. Mill again:

> ...utilitarian writers in general have placed the superiority of mental over bodily pleasures chiefly in the greater permanency, safety, uncostliness, etc., of the former--that is, in their circumstantial advantages rather than in their intrinsic nature. And on all these points utilitarians have fully proved their case; but they might have taken the other and, as it may be called higher ground with entire consistency. It is quite compatible with the principle of utility to recognize the fact that some kinds of pleasure are more desirable and more valuable than others. It would be absurd that, while in estimating all other things quality is considered as well as quantity, the estimation of pleasure should be supposed to depend on quantity alone.

Cf. Mill, Ibid., p.12.

29. Green, Prolegomena, §171. The emphasis is original.

30. Ibid.

31. Ibid.

32. Ibid.

33. Ibid., §172.

34. Ibid.

35. Ibid., §176.

36. Ibid., §233.

32. Ibid., §183.

33. Ibid.

34. Ibid., §184. The emphasis is original.

35. Ibid.

36. Ibid., §220.

37. Ibid.

38. Ibid., §232.

39. Ibid.

40. Ibid.

41. Ibid., 234.

42. Ibid.

43. Ibid., 235.

44. Ibid.

45. Ibid.

46. Ibid., §190.

47. Ibid., §217.

48. Ibid., §194.

49. Green, "Introduction II," Works I, §7.

50. Green, Prolegomena, §241.

51. Ibid., §240.

52. Ibid., §212.

53. Ibid., §244.

54. Ibid., §252.

55. Ibid., §247. This recognition by Green of the overly-abstract character of the Kantian universal will thus makes David Weinstein's observations on how Green is viewed today somewhat puzzling. For Weinstein, "[t]he received view of Green sees him as neo-Kantian and therefore anti-consequentialist, or, at least, anti-utilitarian. It tends to put him on the deontological side of the lively rivalry between Kantians and utilitarians that has long polarized modern moral and political philosophy." Cf. his "Between Kantianism and Consequentialism in T.H. Green's Moral Philosophy," Political Studies XLI (1993), p.619. It is difficult to see how anyone could consider Green to be a deontological theorist.

56. Consider a few of the parallels between Green's account and Sandel's concerning the abstract, detached liberal self. For Sandel,

> [t]o imagine a person incapable of constitutive attachments...is not to conceive an ideally free and rational agent, but to imagine a person wholly without character, without moral depth. For to have character is to know that I move in a history which I neither summon nor command, which carries consequences none the less for my choices and conduct. It draws me closer to some and more distant from others; it makes some aims more appropriate, others less so. As a self-interpreting being, I am able to reflect on my history and in this sense to distance myself from it, but the distance is always precarious and provisional, the point of reflection never fully secured outside the history itself. But the liberal ethic puts the self beyond the reach of its experience, beyond deliberation and reflection. Denied the expansive self-understandings that could shape a common life, the liberal self is left to lurch between detachment on the one hand, and entanglement on the other. Such is the fate of the unencumbered self, and its liberating promise.

Cf. Sandel, "The Procedural Republic And The Unencumbered Self," pp.93-94.

57. Green, Prolegomena, §247.

58. Ibid., §253.

59. Compare Charles Larmore's analysis of contemporary neo-Aristotelianism with Green on the following:

> ...both the belief that there are many different forms of life equally favourable to universalistic morality as well as the recognition that there exists reasonable disagreement about their value, have given a complexity to the idea of the good life that is absent from Aristotle's thought.

Cf. Larmore, "The limits of neo-Aristotelianism" in Patterns of Moral Complexity (Cambridge: Cambridge University Press, 1987).

60. Green, Prolegomena, §259.

61. Ibid., §267. For an account of Green's position on, as Olive Anderson calls it, "the woman question," cf. her "The

Feminism of T.H. Green: A Late-Victorian Success Story," History of Political Thought Vol.12, no.4 (Winter 1991), pp.671-693.

62. Ibid., §273.

63. Ibid., §279.

64. Ibid., §280. Green uses puzzling historical examples of what has extended social union amongst mankind. He cites trade and conquest. His point seems to be, however, that **notwithstanding** the particular interests that were involved in the development of trade and the multitudinous wars of conquest that have plagued humanity, there has occurred a growing recognition of the worth of individuals as ends in themselves.

65. Ibid., §203.

66. Ibid., §288.

67. Ibid., §181.

68. Ibid., §291.

69. Ibid., §309.

70. Ibid., §321.

71. Ibid., §332.

72. Ibid., §352.

73. Ibid., §191.

74. Weinstein, "Between Kantianism and Consequentialism in T.H. Green's Moral Philosophy," p.621.

Part Three

Chapter Four:

Green's Rights-Based Conception of the State:

The Limits of State Action

4.1. Green and Liberal Sovereignty

It has been said that it is not easy to arrive at a just appreciation of Green as a political philosopher.[1] Compressed within his political philosophy are topics such as the meaning and nature of sovereignty, the limits of law, the extent of moral, political, and legal obligations, all coupled with a critique of natural right and an attempt to substantiate a liberal common good. The nature and meaning of political obligation, though, certainly is one of the keystones of Green's political philosophy (the other being his exposition of individual rights), and his general argument for both moral and legal obligations centre around several loosely-related ideas such as majority decision-making (i.e., the presuppositions of democratic theory and practice), constitutionality (i.e., the rule of law), and consent (self-imposed obligation to obey laws).[2] While the phrase "political obligation" may be used to refer to such duties as are prescribed by some system of law stemming from an acknowledged political authority--and certainly this is how Green uses the term--it also in a general sense describes a range of traditional problems about the origin, justification, and limits of the moral obligation to render obedience to political authorities. The method by which Green treats these traditional problems resembles Locke and Mill in that the latter explicitly state that their objective was to explore the nature and legitimate limits of the power or authority exercised by society over the individual. In this manner Green can be viewed as accepting the legitimacy of the traditional liberal method of analysing the state in terms of its nature and limits.

While Mill does receive critical analysis by Green in the Lectures, it is Spinoza, Hobbes, Locke, and Rousseau--the natural rights theorists--who take up much of his attention. This should come as no surprise since Green has been interpreted as a theorist sharply at odds with the social contract and natural rights tradition which premise the existence of an individual in isolation from society.[3] If, as Green insists, a society is founded on the self-subordination of each individual's needs, desires, and interests, then such a society could not come into existence except by recognition of common needs, desires, and interests and thus in principle political objectives common to all. The natural right and contractarian traditions receive much critical attention by Green for the two traditions successfully staked out an influential conception of society as a minimally-cooperative endeavour for mutual advantage among individuals considered as not taking an interest in each other's interests. For Green, such a vision not only is at odds with the internal logic of contractarianism but also inconsistent with the objectives of political society. Green steadfastly held to the idea of a good or well-being "...that should not pass away with this, that, or other pleasure; and relation to some group of persons whose well-being he takes to be as his own, and in whom he is interested in being interested in himself."[4] Such a common good or well-being must actuate those who create or sustain rules, regulations, and laws for a society. In the absence of a system of laws and rights based on this common good, "...there might be instruments of law and custom; intelligent cooperating subjects of law and custom there could not be."[5] It is this idea of a common good which is to provide the grounds for obedience to a system of laws and rights that is our present concern.

An explication of Green's conception of the common good is significant for two reasons. The first is that the "common good" is his conceptual candidate to replace the "social contract" in liberal doctrine. He further attempts to displace "security" and "self-defence" as the objectives of a liberal political society with rival conceptions such as "self-satisfaction" and "well-being." The second is that the common good has a high internal value for the coherence of Green's theory. Green argues (a) that persons capable of aiming at a good are capable of possessing individual rights; (b) that a right is a power of which the exercise by the individual or some group of individuals is directly essential to a common good; (c) that obedience to the laws is dependent upon the general system of laws conforming to a common good; (d) that state action--and here Green explicitly points out its right to punish--requires reference to a common good to justify its actions and policies; (e) that rules and principles of conduct are important to Green, and are based on a "social fabric" or recognized social goods; and finally (f) one of Green's express objectives is to find a criterion of obligations and rights independent of those recognized and enforced by a system of laws and rights. Given the role and place assigned to a common good in his theory--how it relates to obligations and rights--our present task is to reconstruct and systematize a political common good from Green's Lectures.

This chapter in particular focuses on Green's claim that a citizen's obligation to obey a system of laws and rights is or becomes a moral obligation if or when such a system of laws and rights refers to a common good. The objective in this chapter is to assess Green's conception of the common good by explaining its meaning and significance to his account and more importantly whether it is as he believed a superior conception to the social contract. What primarily animates this analysis is one of Green's arguments justifying civil disobedience: if the authority from which an objectionable command proceeds is clearly separable from that on which the maintenance of social order and the fabric of settled rights depends, then it can be resisted without serious detriment to this order and fabric.[6] When Green argues that the state's purpose is to "sustain and harmonize" individual rights, he directs us toward a conception of the state as rights-based, one that refers to the powers (sovereignty) of the state. It is here that we require from Green's account some criterion or criteria in order to distinguish legal from moral rights and obligations. I will call this criterion the "common good criterion," one that replaces the contract as the justificatory device for the exercise of political power, a conception that legitimates the exercise of sovereignty but at the same time limits the exercise of such power that is a recurring criticism of Green's theory.[7]

This chapter will proceed in the following manner. Section 4.2. examines the manner in which traditional liberals conceived authority and sovereignty and why an analysis of authority is relevant. Section 4.3. explains why Green focuses his attention on the natural right and contractarian traditions and in general terms outlines what he considered to be the main weaknesses of the traditions. Section 4.4. examines Green's interpretation of Spinoza and Hobbes and why for Green they could not convert "natural power" to "natural right." Section 4.5. turns to Green's distinctive reading of Locke and Rousseau and whether they provide an alternative understanding of natural right that distinguishes between power and right. Section 4.6. investigates Green's conceptions of natural law and political obligation and clarifies the meaning of sovereignty in Green's political philosophy. What is noteworthy here is that for Green, the sovereignty of the state is an attribute of the authority of state law, and not an attribute of the force and the power that the state must wield in order to make its system of law and its policies effective. Section 4.7. examines Green's political conception of the common good and assesses its liberty-prescriptions. Section 4.8. concludes with an assessment of the criticisms directed at Green over the presumed ambiguities concerning his principles of state action.

4.2. Authority and Sovereignty: The Exercise of State Power

Contemporary liberalism concentrates on its individualist and libertarian elements at the expense of its doctrines of government, law, and authority.[8] Liberals today stress rights, liberties, democracy, participation, representation and the like at the cost of detailed attention to obligations, duties, law, authority, and order. The devices used to justify rights in liberal theory such as neutrality, dialogue and equal respect all share one feature: they abstract and isolate the individual from the exercise of political power and ignore the problem of sovereignty. There is a danger of neglecting the basic truth of liberal politics that its liberties and rights depend upon the survival of the liberal state. Liberal regimes compel their citizens to execute policies such as declarations of war where the loss of life--often innocent life--pushes comfortable boundaries. The contemporary state possesses the power (in the sense that it may enact legislation) to take the life of any one of its members, and contemporary liberal political philosophy is ill-equipped to deal with these features of political life.

Liberals should understand first and foremost that without some form of compulsion, the very existence of society could be endangered and that behind the rules of conduct whose observance is necessary to assure peaceful human interaction must stand the threat of force if society is not to be at the mercy of any one of its members. A system of law typically uses coercion and direct force to regulate behaviour in a community. Law orders people about, restricts their choices, and deprives individuals of liberty and sometimes even of life. A political society must be in a position to compel those who constitutionally refuse to respect the rules of society by encroaching upon others. The power to compel was for the classical liberal assigned to the state yet limited by its objectives, embodied in liberal doctrine, to protect property and liberty and to ensure general security and peace. The state is the public or the common, and the presence of sovereign power is taken to be the mark which distinguishes the state from other social groupings. The essential element of the political community, that which distinguishes a state from other groupings, is the presence of a sovereign and the primary attribute of sovereignty is the power to give laws to citizens (without the consent of a superior, an equal, or an inferior).

The herculean attempt by liberals to incorporate the power to compel individuals while at the same time limiting such power was accomplished by treating all political relationships as reducible to the one principle of consent or contract. The principle of contract relies upon the underlying grounds of all social obligation, especially that of good faith in keeping covenants. It was taken as axiomatic that an obligation, to be truly binding, must be freely assumed by the parties. Ideally the compulsion to obey should be inward, flowing from the interests and motives of the individual. Accordingly it was also taken as axiomatic that an obligation cannot be imposed by force or from some external power but must be voluntarily assumed. This principle of consent or contract can be interpreted in two ways: the principle could be used to limit the power of government and justify disobedience (as with Locke) or it could be used to defend the absolute position of the sovereign (as with Spinoza and Hobbes). In whichever direction consent or contract is taken, it indicates that law, government, and political power all fall within the field of morals, that governmental actions are subject to ethical criticism.

Green has two important reservations about the concept of sovereignty. The first is the lingering historical fact that if there ever were a compact at the origin of states, it would have been one forged from swords and not pens. It is an inescapable feature of the modern state that conquest played a disproportionate role in the formation of states. That such factors were present at the origin of the state does not vitiate the evolving systems of laws and rights, Green maintains, so long as force and conquest are not its principal or defining objectives. His second reservation about sovereignty is the presumption that the nature of the state is to exercise ultimate force. Green agreed with traditional liberals that the preservation of order and security constitutes a primary obligation on the part of the sovereign toward its subjects. Yet there are issues, including value and moral questions, about which sincere and well-intentioned people in liberal societies disagree in such a way that compromise is not possible, that one group will impose its moral viewpoint on the other and thereby impose basic principles and views of life on others.[9] While liberalism was born as a response to controversy, disagreement and war, liberalism as a theory and practice is not based on disagreement, relativism, neutrality, or compromise in the face of every controversy. As Stephen Macedo explains, people who disagree about beliefs and commitments must regard common political principles as regulative of all their interactions with others; accordingly liberalism requires "...not merely an overlapping consensus but a consensus that practically overrides all competing values."[10]

In the end, there are only two ways of making decisions between alternative ways of overseeing or coordinating action to the common purpose or common good of any group. There must be either unanimity amongst members of the group or authority by a select group or individual within the group as a whole. The need for authority--and ideally delegated authority--substitutes for the requirement of unanimity in determining the solution of practical coordination problems which involve all members within a society. What is distinctive about liberalism is not the absence of a substantive conception of the good in its authoritative decisions and allocations, but a reluctance to move from this conception to an all-embracing public coercion of individuals.[11] It is not who governs but what government is entitled to do that is the essential problem. The question cannot be whether the authorities ought to impose restrictions upon the freedom of the individual, but only how far they ought to go in this respect. The task of a policy of freedom must be to minimize coercion or its harmful effects, even if it cannot eliminate it completely. The explanation of the justification for authority and its limits is for Green by reference to the common good, a good which comprises each and everyone's well-being but one which must be considered and favoured at all times by those responsible for coordinating the common life. Green saw in the natural right tradition an emerging conception of such a common good expressing the principles of a liberal state, a good that both limits and determines its authoritative allocations. Yet such a good was not capable of full articulation, and the reasons for this inability were for Green as significant as the emerging conception itself.

4.3. Green on Classical Liberal Natural Right

Green begins his analysis of natural right by asking "...whether it is worth while to examine the internal consistency of a theory which turns upon what is admitted to be historically a fiction--the supposition of a contract of all with all. There are fictions and fictions however."[12] As he explains, "...the doctrine of natural right and government by consent, which, however open to criticism in the crude form of popular statement, has yet been the moving principle of the modern reconstruction of Europe."[13] The doctrine formed the grounds for political obligation, the justification of established rights presented throughout the seventeenth and eighteenth centuries. Apart from utilitarianism, the standard method of justifying civil rights (powers secured by law against others) and the rights of the state (powers exercised by the state over individuals) had been to deduce civil rights and sovereign authority from certain presumed prior rights called natural rights. Since the original contract represents an agreement between individuals and between individuals and a sovereign in which some personal liberties are freely surrendered in return for the advantages of an organized society, each individual has an interest in upholding its conditions or terms. It was presumed that the exercise of natural rights came about from a rational recognition on the part of individuals that their general interest in maintaining peace and security was the basis for a contractual political society, that from an original compact there arose both the system of rights and obligations maintained by law between individuals and the right of the state to obedience by its citizenry. Obedience to this original compact or contract at its best is the product of good faith in maintaining agreements, but if such confidence is lacking then the argument is that disobedience to the original laws will violate the natural rights of others. Natural right is violated in the event that an individual refuses to obey the law of the state, thereby undermining the personal or natural liberties of others left intact after the ascension of the sovereign.

For Green it is impossible "...to hold that the right of the sovereign power in a state over its members is dependent on their consent, and, on the other hand, that these members have no rights except such as are constituted and conferred upon them by the sovereign. The sovereign, and the state itself as distinguished by the existence of a sovereign power, presupposes rights and is an institution for their maintenance."[14] The weakness of contractarianism is that it treats the justification of actual rights with the question whether there is a prior right to the possession of actual rights.[15] Contractarianism inverts the course of historic events, treating as origin or foundation that which is historically the result. If it could be shown that rights exercised in political society were derived from prior natural rights, the question would still remain as to the justification of those natural rights. That is, the problem would still arise as to why some powers were recognized as powers which ought to be recognized. Consequently, while it may be possible and perhaps useful to show how rights established by law are derived from natural rights (not in the sense of being prior to society but rather in the sense of being prior to the existence of a society governed by written law and a sovereign), Green argues that the method has largely preempted the justification of the rights in dispute. For Green there is an urgency in supplying an answer as to why political and civil rights should be recognized as legitimate regulative powers because even the most basic or elementary individual rights require some manner of justification.

Green maintains that there ought to be rights because a moral personality, a capacity on the part of an individual for making a common good his or her own, ought to be developed. The development of a moral personality is in part attained through the exercise of rights--powers in need of regulation or systematization--by the recognition of members of a society that such powers contribute to the common good. The ability to conceive and to articulate a good as the same for oneself and for others, and of being determined by that conception, is for Green the foundation of rights. No right is justifiable except on the ground that it directly or indirectly serves this purpose and every power should be a right, i.e., society should secure to the individual every power that is necessary for realising this capacity. Because an individual is capable of conceiving a good and moreover of conceiving it to be good for itself and for others, there arises a recognition of a common good that should be the object of action, i.e., a duty, and a claim to a power of action that should be secured and regulated by consciousness of a common good on the part of others, i.e., a right. Accordingly, Green maintains that rights do not begin until duties begin.[16]

What differentiates Green's conception of the common good from the general conception of natural rights is the amount of analysis devoted to the prior treatment of duties. His essential position is this: there is no basis for claiming a right from a primary human capacity or development of capacities which cannot be claimed as a duty. Presumably what Green means here is that the recognition of a good that coincides with the good of another creates an object of action that variably may be called a duty or a right. As Green explains, the "...possession of a right by any person both implies an obligation on the part of someone else, and is conditional upon the recognition of certain obligations on the part of the person possessing it."[17] However, he also argues that all rights are relative to moral ends or duties and he maintains that a disengagement of rights from duties occurred with the 17th-century state of nature theorists with the legacy being the ultimate disassociation of duty from right. For these theorists individuals were presumed to exist in a pre-political state of isolation, but a state in which certain rights were attached to them as individuals. Once a political society was formed other rights arose, none of which could interfere with the natural rights which belonged to them prior to the formation of the social contract. Green responds that a "natural right" as meaning a right in a state of nature (i.e., not a state of society) is a contradiction. He instead asserts that "[t]here can be no right without a consciousness of common interest on the part of members of a society. Without this there might be certain powers on the part of individuals, but no recognition of these powers by others as powers of which they allow the exercise, nor any claim to such recognition, and without this recognition or claim to recognition there can be no right."[18]

4.4. Theorists of Power: Spinoza and Hobbes

Green primarily had a twofold interest in the natural right tradition. First, Spinoza, Hobbes, Locke and Rousseau all attempted in various ways to determine a "common interest" from which to provide grounds for individual natural rights.[19]

Second, Green was animated by its doctrine of equality, its conception of individuals as bearers of natural and common faculties and powers. As he maintains, "[n]o equality in freedom is possible except for members of a society of whom each recognises a good of the whole which is also his own, and to which the free cooperation of all is necessary."[20] Each of the theorists in the natural right tradition consistently maintained that there was an interest in creating or maintaining a political society. In the Prolegomena, Green refers to this common interest as a "moral ideal," a conception of a good of an individual as an end in distinction from any particular desire, and a like good of another or others as included in that end.[21] This moral ideal to which Green refers is an idea of a "...possible well-being of himself, that should not pass away with this, that, or other pleasure; and relation to some group of persons whose well-being he takes to be as his own, and in whom he is interested in being interested in himself--these two things must condition the life of any one who is to be a creator or sustainer either of the law or of that prior authoritative custom out of which law arises."[22] The moral ideal is a "common well-being," (a) an interest expressive of the same good of a society which we also desire as our own,[23] (b) that admits no distinction between good for self and for others,[24] and (c) represents an objective which is for the individual only so far as it identifies with a society.[25] The issue for Green was whether a common interest, which he argues is necessarily a common well-being, could be detected in the natural right doctrines of right, equality, and liberty.

When Spinoza wrote that the right of nature is the power of nature, he concluded that everything an individual does in accordance with the laws of nature is done by sovereign right and thus possesses as much right against other things in nature as the individual has power and strength.[26] Spinoza treats all power as properly right, yet not as derived by reason but from the struggle for existence.[27] Since individuals are motivated primarily to act on desire more than reason, their natural right could hardly be defined in terms of reason.[28] Civil law results from the conflict of natural powers, a conflict that arises from a group of individuals attempting to satisfy passions and preserve their being.[29] Individuals are by nature subjects of passions such as anger and envy, are to be more feared than other animals (for more cunning), and consequently are natural enemies or competitors. In the state of nature, then, there is nothing properly called power or right and so arises the need for a collective body of individuals in order to make right, i.e., sovereignty, in order that each individual may be a bearer of rights.[30]

For Spinoza, the collective or corporate body of individuals has more right in nature than any individual could possess.[31] Yet as Green explains, when individuals hold rights as a body then each individual possesses less right the more numerically the corporate body exceeds him or her in power, and thus the individual's only right against others is what the corporate right allows. An individual must carry out the edicts expressed by the corporate body or be compelled to do so. Are there, Green asks, limits to the right which the corporate body or state may exercise? In a civil state the natural right of the individual disappears in that he or she has neither the mind nor the power to act against the state.[32] On the other hand, an individual does exercise natural powers for the end of satisfying wants and preserving life. Only in civil life do these two motives coincide to form the power of the people collectively. Spinoza states that the sovereign's power is weakened by any action against right reason, that is, any action on behalf of the state that does not achieve the conditions reason declares good for all. Since subjects provide their allegiance as a result of the state's power to induce fear and love, it follows that all actions which cannot be induced by these motives fall outside the right of the commonwealth.[33] There is an infant liberal principle of state action here insofar as Spinoza attempts to delineate a class of acts--principally acts motivated by fear or love--that are beyond the state's power to influence. Nonetheless, since Spinoza gives no account of what kinds or types of action are not induced by these motives, we are left with an incomplete and ambiguous limiting principle of state action.

Spinoza's purpose for political society is peace and security of life. The best government in his theory is one in which individuals live in harmony and rights are kept inviolate. If neither of these conditions are met, if discord and the violation of right are the mark of civil life, then the fault must lie with the sovereign since individuals are by nature possessors of natural passions. Since sovereignty in a determinate corporate or collective body arises from its superior force and strength, and since the sovereign must remain aware of what motivates individuals to act, the culpability for failure to establish a system of rights coordinate with individual passions must lie with the state. The peace and security provided by the state consists for Spinoza in rational virtue, in a common mind governed by desire on the part of each for perfection of being in self and others. Yet for Green, Spinoza's doctrine of the state is not consistent with the postulate that no motives are recognized in individuals but those that render them natural enemies. It is from fear and envy that the rationale of the state was supposed to have been founded; each individual finds that war weakens all, and thus the desire to strengthen oneself becomes equivalent to the desire to form civil society. While Spinoza informs us that the civil state does not bring with it objectives other than those operative in the natural state, miraculously there supervenes on individual motives of fear, hatred and envy an inexplicable desire not only to live in harmony but additionally to find a better way of life once in the civil state.[34]

Green counters that an insurmountable lacuna exists between the desires of Spinoza's natural individuals and the powers they would utilize to form a civil society. Most obviously, Spinoza left it unclear how a desire for civil society could arise out of the impulses which make individuals natural competitors. If cooperation and not competition leads to the formation of a civil state, then the priority accorded to the conception of individuals as natural enemies is superseded by a different view of natural right, one not identified solely with the exercise of power. More importantly, Green argues that some "...power of conceiving and being interested in a good as common, some identification of the **esse** of others with the **suum esse** which every man...seeks to preserve and promote, must be supposed in those who form the most primitive social combinations if these are to issue in a state directed to such ends...."[35]

If Spinoza had qualified power in some fashion--had he devoted more attention to the factors that transform power into right--then he would have been warranted to speak of natural law (specifiable yet generally unrecognized claims to exercise power) as preceding civil law (actual recognition). Instead, while recognizing that right requires reference to a community, Spinoza fails to acknowledge forms of community more primitive or elementary than that of the state. Spinoza treats the division of the natural state from the civil state as exhaustive, and the natural state is one of "..pure individualism, of simple detachment of man from man, or of detachment only modified by conflict."[36] As Green further explains, such a natural state "...lacks both the natural and the rational principle of social development--the natural principle, i.e. the interest in others arising primarily from family ties, and the rational principle, i.e. the power of conceiving a good consisting in the more perfect being of the individual and of those in whom he is interested."[37]

The cardinal mistake by Spinoza--the "...error of his time..."[38]--was the rejection of final causes[39] which manifested itself in the conception of an individual apart from his or her vocation as a member of society, and the state from its purpose of enabling the individual to fulfil that vocation. Spinoza does recognize "...a difference between a higher and lower, a better and worse, state of civil society, and a possibility of seeking the better state because it is understood to be better. And this is to admit the possibility of the course of human affairs being affected by the conception of a final cause."[40] Green suggests that Spinoza did believe in an operative final cause in political life: the development of individual perfection once peace and security were established and a community might necessary to actualize right. Spinoza utilized two necessary elements for a political society: (a) an objective of the state which is immediately peace and security, and (b) the need to legitimate the use of coercion or authority to fulfil these objectives. The chasm though between the picture of individuals as natural beasts and the conversion in political society of natural desires to social harmony is too pronounced in Spinoza's system. One of his contemporaries would try to fill the breach.

In Green's estimation, Spinoza and Hobbes base their accounts upon the existence of pre-social individuals struggling for existence as natural competitors, and both conceive natural law to be equal to natural power. For Green, though, Hobbes represents a retrograde development of right notwithstanding that "...the principle of the two theories is very much the same."[41] According to Green, while Spinoza places limitations upon the sovereign, "Hobbes on the other hand supposes his sovereign power to have an absolute right to the submission of all its subjects, singly or collectively, irrespectively of the question of its actual power against them."[42] This sovereign power is derived from a covenant by which individuals devolve their right of nature to the sovereign, and the terms of this covenant are irrevocable.[43] While Hobbes states that the sovereign may be an assembly of individuals, his employment of the term sovereign **person** does "...favour the development of a monarchical doctrine of sovereignty."[44] For Hobbes, sovereign power is attained by either acquisition or force, the former when the threat of death is looming and the latter when individuals agree among themselves to submit to some one individual or assembly for protection. Sovereignty attained by institution, by a consensual act on behalf of a group of individuals, is highly fanciful, and thus sovereignty by acquisition constitutes the only meaningful method in Hobbes's account of acquiring absolute power.

Not only is the presumption by Hobbes of a devolution of wills or powers on a sovereign by a covenant pure frippery for Green, but "...the notion of an obligation as distinct from a compulsion to observe this covenant is inconsistent with the supposition that there is no right other than power prior to the act by which the sovereign power is established."[45] If, Green argues, there exists no such right prior to the imposition of sovereign power, then it is difficult to understand how such a right is derived subsequent to the establishment of sovereign power.[46] The only natural right which can belong to the sovereign consists in the superiority of its power, and this right can only be measured by the inability of its subjects to resist such power. The result of "right" being equivalent to "power" is that no obligatory covenant can be made. Hobbes, however, has to suppose an inviolate covenant prior to the establishment of a sovereign authority. The inviolability of the covenant can hardly be derived from the sovereign itself, and so Hobbes creates a law of nature to the effect that individuals must perform their covenants (which means that covenants are in everyone's interest). Hobbes, like Spinoza, maintains that individuals are natural competitors and that natural law is mere power, the latter graphically illustrating the advantages of supreme power vested in sovereignty and the disadvantages of subversion of such power. Yet, as Green notes, if sovereign right is simply power, then a successful revolution surely obviates its inviolate nature; a successful revolution would be a combined power which prevents the war of all against all returning. As Green suggests, the weakness of Hobbes's account lies not so much with its inconsistency pertaining to the impropriety of rebellion--that would become Locke's riddle--but instead explaining how natural rights independent of the sovereign become lost during the creation of the compact.

Green has three principal objections to the doctrines of consent and authority in Spinoza's and Hobbes's accounts. First, and the least inspiring, he maintains that the self-interest in upholding agreements, the fear that constitutes civil or political obedience, can never replace a willing subjection to a system of laws and rights. As Green explains, to represent fear "...as the basis of civil subjection is to confound the citizen with the slave, and to represent the motive which is needed for the restraint of those in whom the civil sense is lacking and for an occasional reinforcement of the law abiding principle in others, as if it were the normal influence in habits of life...."[47] Second, Green counters that "...the condition of society in which it could properly be said to be governed by a law of nature, i.e. by an obligation of which there is no imponent but the consciousness of men, an obligation of which the breach is not punished by a political superior, is not antecedent to political society but one which it gradually tends to produce."[48] Green indicated elsewhere that a practical pursuit of the good in social and political institutions, arrangements of life, social requirements and expectations is necessarily prior to theoretical considerations such as are a product of the social contract.[49]

Green's third and most forceful point is this: in a pre-political state of nature where nobody has any duty not to take anything he or she desires, no one could have any rights at all, just powers of self-defence. A theory that utilises powers as equivalent to natural rights in a natural state cannot provide a satisfactory account of duties and obligations in a political society. Green properly notes that the evocation by Spinoza and Hobbes of a "common good" comprising each and everyone's basic well-being, a good to be considered and favoured at all times by the sovereign, is a significant but undeveloped element of their theories. Both Spinoza and Hobbes explain the need for authority by forcing their audience to decide between two different ways of co-ordinating action to the common purpose or common good of any political society: either create the means for making unanimous public decisions or substitute authority for unanimity. If for Spinoza and Hobbes the explanation and justification of authority, its limits, and its proper modes of operation is an explanation by reference not exclusively to the contract but to the common good (understood as a common interest) then much more attention was needed to give some content to this common good or interest. Green though believed that a positive development in the explication of a common good or interest was on the horizon in the writings of Locke and Rousseau.

4.5. Innocence Lost: Locke and Rousseau on Political Society

All the state of nature theorists--from Spinoza and Hobbes to Locke and Rousseau--agree that individuals recognize the law of nature in the state of nature. As Green notes, "[i]t is not a law according to which the agents subject to it act necessarily but without consciousness of the law. It is a law of which the agent subject to it has a consciousness, but one according to which he may or may not act; i.e. one according to which he **ought** to act."[50] The glaring problem of a conceptual state of nature according to Green is that it leads to two opposite conclusions. To account for an original covenant or co pact of all with all such a theory has to presume a society of individuals who willingly subject themselves to a law of nature prescribing the freedom and equality of all. Yet such a pre-political society governed by a law of nature prescribing freedom and equality would be a society in which no motive could exist to establish civil government. Accordingly, the imaginary state of nature may represent how such a society bears no resemblance whatsoever to a Golden Age. For Green the state of nature as representing mankind's departure from an idyllic existence is seen in Rousseau "...but to a great extent [is] anticipated by Locke."[51]

A state of nature for Locke is a state wherein individuals live together according to reason but without a common superior with authority to judge between them.[52] A state of war occurs when force or declared design of force is directed toward another person where there is no common superior to mediate, and ceases when the actual use of force is over and an aggressor offers peace and reparation. While a state of war is a frequent aspect of the state of nature, it is by no means for Locke one of its primary characteristics. The difference between a state of nature and a state of war can only be maintained on the grounds that the law of nature, or reason, is observed in a state of nature. Locke presumed an operative law of nature in the natural state, for individuals appear to recognize their fundamental equality.[53] The principal objective of political society is to establish the legislative power.[54] Since individuals have no legislative right over others in the state of nature, such power cannot be said to be possessed by the legislative power once established. No legislature can rightfully destroy, enslave, or wilfully impoverish its subjects, and its objective is to declare the law of nature in general terms and administer it by known, authorized judges.[55] It would appear that for Locke a state of nature would have been a reasonably decent and cosy condition were it not for the inconvenience of every individual being judge and executor of the law of nature. Therefore upon the erection of political society is first established settled laws, known and indifferent judges, and a power to enforce the decisions of the judges. A legislature violates the trust placed in it when it governs by particular interests, creates laws not designed for the good of the populace, raises monies without consent, or transfers the power of making laws elsewhere without the express desire of the people.

For Locke, the original compact is a transfer of natural right by individuals to society, but it can only be abrogated through the dissolution of society itself--and this could only arise by foreign conquest. Yet the delegation by the society of legislative and executive powers to a person or persons is of a different order; in this instance society always retains the right of withdrawing delegated powers and must exercise this right in the event that (a) the legislature is altered, (b) a conflict arises between executive and legislative officials, or (c) when either the legislative or executive breaches the trust placed in them.[56] Locke's account though raises a very different problem pertaining to the right of revolution. By reifying an impossible event, the establishment of government by an original compact, Locke compounds the error by positing another equal impossibility, a collective act of a people dissolving its government.[57] Stated so, "...[o]n Locke's principle that any particular government derives its authority from an act of society, and the society by a like act may recall the authority, how can we ever be entitled to say that such an act has been exercised?"[58] Locke did not give much consideration as to what comprises an act on behalf of the people, an event that could be said definitively to displace a government, since his concern was to defend "...the principle that government is only justified by being for the good of the people, and to point out the difference between holding that some government is necessary for the good of the people and holding that any particular government is for their good...."[59]

The sovereignty that Locke considers to lie with the people in the event of a breach of trust between the people and its representatives Rousseau considers to be in perpetual operation. Unlike Hobbes's and Locke's sovereign institution, Rousseau's is not presumed to have been created by any particular act on behalf of the commonwealth.[60] The general problem Rousseau conceived was this: we require a form of association based upon a common force which protects a person and property but in which in the unification itself the person obeys only himself.[61] Each individual in political society is under an obligation in two relations: (1) as a member of the sovereign body towards others, and (2) as a member of the state toward the sovereign. While all individuals can be placed under particular obligations toward the sovereign, the sovereign cannot incur an obligation towards itself. The sovereign, in other words, cannot impose any law upon itself which it cannot cancel.[62] This sovereign will--the general will--can have no interest contrary to the people, although individual wills may conflict with the sovereign will. Thus any social pact involves a tacit agreement through which anyone who refuses to conform to the body politic will be forced to do so since a universal conformity to the general will is the guarantee to each of individual freedom from dependence on any other person or persons.

The result of Rousseau's doctrine is that in exchange for a natural liberty to do and get what one can, an individual becomes a moral agent by replacing appetite and instinct with the general will as the guide to individual and collective action.[63] It can now be said that an individual ought to do something instead of saying an individual was forced to do it. The device of the general will would appear to resolve some difficult issues. What the general will decides upon is law; the state is the proper office to make such laws; a sovereign, as a member of the state, cannot be above the law; a law cannot be unjust if it is an expression of the general will; and we are free yet subject to the laws because they express our desires in the general will. Laws arise when these conditions are undertaken by the people as an entire body, and where these conditions are not upheld we see not laws but decrees, not acts of sovereignty but magistracy. Such a formulation leads to a consideration of the nature of government, and on this point Rousseau, following Locke, distinguishes a government from a sovereign. A government is distinguished from a sovereign by its functions, the former being legislative and the latter executive in nature. It would seem that for Rousseau the general will, as opposed to the **volonté de tous**, can only be exercised in assemblies comprised of the entire citizenry; and yet such an act of the assembly is not necessarily an act of the general will. There is often a great difference between the general will and the will of all arising from the former's attempt to express a common interest as opposed to the latter's summation of private interests.

While Rousseau recognizes the difficulties of requiring unanimity in the original compact, if among those who are parties to the original contract there are some who oppose it, the result is simply that the latter are not included in it. They are, as Rousseau puts it, "foreigners among citizens."[64] But as Green suggests, excluding a segment of the populace from governing does not explain how a minority is to be **rightfully** controlled if the principle is that of consent. And if they are not obligated, what value then is the social contract?[65] Thus for Green, Rousseau's attempt to reconcile voluntary submission to government with the existence of natural rights prior to the institution of government by consent "...more consistently than any other writer...shows the hopelessness of the attempt...."[66] Green indicates that the conception of a general will nonetheless has a great deal of merit for it demonstrates that while the doctrine of natural rights based upon a voluntarily-observed original contract is untenable, there remains validity "...in the conception of the state or sovereign as representing a 'general will,' and as authorised or entitled to obedience on that account."[67] Green suggests that in a state wherein obedience is habitually rendered to some determinate superior, single or corporate, who in turn is independent of any other superior, "...the obedience is so rendered because this determinate superior is regarded as expressing or embodying what may properly be called the general will, and is virtually conditional upon the superior being so regarded."[68] If a sovereign, then, is not assumed to be unalloyed power, it ought to be considered in conjunction with that habit of obedience on the behalf of a people. If we take this into account, then

> ...this habitual obedience is a power residing in the common will and reason of men, i.e. in the will and reason of men as determined by social relations, as interested in each other as acting together for common ends. It is a power which this "universal" rational will exercises over the inclinations of the individual, and which only needs exceptionally to be backed by coercive force.[69]

The positive development in the natural right tradition in Green's estimation was Rousseau's conception of a general will. As Green explains, "Rousseau himself well says that the proper question for each citizen to ask himself in regard to any proposal before the assembly is not, Do I like or approve it? but, Is it according to the general will? which is only another way of asking, Is it according to the general interest?"[70] It is a development of individuals as citizens, and "[t]he degree to which the individual judges for himself of the relation between the common good and the laws which cross the path of his ordinary life, is the measure of his intelligent, as distinguished from a merely instinctive, recognition of rights in others and in the state; and on this recognition again depends his practical understanding of the difference between mere powers and rights as exercised by himself."[71] The development for Green is a movement away from a vision of individuals as exercisers of powers toward one where individuals become citizens, ideally those who (1) make the best of existing social institutions, (2) maintain social order and the general fabric of rights, and (3) assess the interest in the value of the existing government in its relation to public good.[72]

When Rousseau stated that sovereignty lies in a general will, his doctrine indicates that there can be no legitimate sovereign except in a most thorough and encompassing democracy. While it is somewhat deceptive to speak of the general will as actually sovereign in the sense that it signifies a determinate person or persons charged with the supreme coercive function of the state--for the general will does not admit of being invested in a person or persons--it remains the case that the general will is an expression of the political institutions which maintain the equal rights of all. As Green explains, the sovereign "...should be regarded, not in the abstraction as the wielder of coercive force, but in connection with the whole complex of institutions of political society."[73] If coercive power is the sole characteristic of sovereignty, then either the general interest in maintaining equal rights has lost its allure or the sovereign no longer is fulfilling its function of maintaining these rights and thus has lost its support. Sovereignty as an empirical matter does lie in some determinate person or persons, but the account must be supplemented with other pertinent factors of obedience, such as common interests and sympathies.

In general, Green discerned a development in the state of nature and natural right doctrines of Spinoza, Hobbes, Locke, and Rousseau. Each theorist suggested that the institution of a sovereign arose by a compact or contract by members of a political commonwealth. Each further agreed that an individual must either abdicate or transfer certain natural powers in order for there to be a common laws and duties. Beginning with Spinoza and Hobbes the doctrine of consent implied that individuals have a voice, albeit muted, in the establishment and maintenance of sovereign power. Locke introduced a distinction between a sovereign and a society in order to show that individuals have duties toward each other irrespective of the status of the sovereign. With Rousseau, however, "...the whole drift of his doctrine is to show that no sovereign...had any claim on obedience. There was no state in Europe at his time in which his doctrine would not have justified rebellion, and even under existing representative systems the conditions are not fulfilled which according to him are necessary to give laws that claim on our obedience which arises from their being an expression of the general will."[74]

The natural right theorists differed, however, on whether an individual or group had a right of displacing sovereignty, and on this point it was Rousseau who presented the most eloquent and compelling case against natural right. For Green, the weakness of the conception of natural right underlying the theories of Spinoza, Hobbes, and Locke, and brought out tellingly by Rousseau, is that the conception of natural right within their doctrines cannot be made consonant with obligations to established laws. Only the most expansive democratic machinery can rescue the device of majority rule from the charge that it simply saves appearances. In fact, Green's claim is even stronger: the natural right tradition cannot be made consonant with **any** obligations. It is precisely when individuals are called upon to assess the state's objectives that the differences between Spinoza, Hobbes, Locke, and Rousseau become apparent. All recognized that special difficulties arise when sovereignty is in question. For Spinoza and Hobbes, right either is suspended or non-existent in the absence of a power capable of overwhelming subjects. Instead Green argues that a general system of laws and rights requires sovereign authority based on the control of the conduct of individuals according to regular principles that express common interests. These common interests which form "the general fabric of rights" convinced Green of the propriety of asserting that "...it is rather the state that makes the sovereign than the sovereign that makes the state."[75] For Green the enduring importance of the natural right tradition was an internal development first of the gradual extension in the range of persons recognised as persons (i.e., as participants in a common project), and second the complementary deepening of the conception as to what this common good entails.

4.6. The Concepts of Natural Law and Political Obligation

One of Green's principal claims is that the existence and application of coercive force fails to account for habitual obedience on the part of individuals to a system of laws and rights. As he puts it, "[t]hat which determines this habitual obedience is a power residing in the common will and reason of men, i.e. in the will and reason of men as determined by social relations, as in each other as acting together for common ends."[76] The question of obligation was crucial for Green since only if one understood the grounds of "habitual obedience" could one arrive at a theory of the morally justifiable state in terms of the rationale for endowing a determinate person or persons with supreme coercive power. The obligation to obey was for Green tied to a particular conception of natural law, one that distinguishes legal from moral obligations and provides a criterion for justifying unrecognized rights and obligations.[77] The value and worth of social institutions--of a system of laws and rights, and of political institutions--lies in their ability to enable individual capacities of will and reason to realise perfection. As Green explains, "[i]n their general effect apart from particular aberrations, they render it possible for a man to be freely determined by the idea of a possible satisfaction of himself instead of being driven this way and that by external forces--thus giving reality to the capacity called will, i.e., his idea of self-perfection, by actions as a member of a social organization in which each contributes to the better-being of all the rest."[78] When social institutions operate in such a manner Green deems it appropriate to speak of a law of nature. The rights and obligations independent of the sovereign are the principles expressive of rights and obligations in a liberal society, and the criterion from which to judge the rectitude of received rights and obligations is for Green the common good.

The accentuation by Green of a common good meant an alteration of the concept of political obligation. There is an obvious and not so obvious meaning attributed by Green to "political obligation." In its clearest form it includes "...both the obligation of the subject towards the sovereign, of the citizen towards the state, and the obligations of individuals to each other as enforced by a political superior."[79] Green argues that in order to examine political obligation there must be a consideration of the moral objective served by law in order to discover the basis for obedience to the laws. There is though a less evident aspect to his understanding of political obligation; the question he proposes concerning political obligation centres around why and when individuals should obey the law--not what political obligation is--and thus his method is neither historical nor conceptual. His method is normative in that he explores what he considers the true function of law to be which is the basis of our moral duty to obey it (a moral duty for Green is always to be distinguished from a legal obligation). An analysis of obedience to the laws must consider what is of permanent moral value in social institutions. Accordingly Green asks in what manner have particular kinds of conduct contributed to the possibility of a higher morality, and whether there is any justification in having a claim upon our loyalty to the maintenance of such institutions.

In contrast to his liberal predecessors, Green explains that "[t]here is a system of rights and obligations which should be maintained by law, whether it is so or not, and which may be called 'natural,' not in the sense in which the term 'natural' would imply that such a system ever did exist or could exist independently of force exercised by society over individuals, but 'natural' because necessary to the end which it is the vocation of human society to realise."[80] This system of laws and rights is embodied in a "national spirit," which means "...(a) some type of personal character, as at any time exhibited by individuals who are held together and personally modified by national ties and interests which they recognise as such; or (b) such a type of personal character as we may suppose **should** result...from the intercourse of individuals with each other under the influence of common institutions which make a particular nation...."[81] This "national spirit" represents political and social objectives expressed in the positive laws ("...law of which the observance is enforced on the individual by a political superior...")[82] and institutions of a society; in the law of opinion ("...part of what the individual feels to be expected of him by some person or persons to whose expectations he ought to conform...");[83] and finally in the various systematized laws of opinion.[84] Together the content of the laws and systematized principles of orderly conduct comprise what Green calls the common good.

What distinguishes a political society from other groupings for Green "...is a power which guarantees men's rights, i.e. a certain freedom of action and acquisition conditionally upon their allowing a like freedom in others. It is but stating the same condition otherwise to speak of a power which guarantees the members of the society these rights, this freedom of action and acquisition, impartially or according to a general rule of law."[85] Obedience to this sovereign power, Green argues, "...is determined by a system of law, chiefly customary...but which corresponds to the general sense of what is equitable and necessary."[86] It is from this common source that all claims to obedience by the sovereign "...always retain two elements in common--one consisting in antagonism to some inclination, the other consisting in the consciousness [or recognition] that the antagonism to inclination is founded on reason or on the conception of some adequate good."[87] The desire for a political society entails a distinction between individual interests and the interests of others. Sovereignty represents common institutions held together yet modified by mutual interests accepted as such.[88] These mutual interests determine the habitual obedience "...residing in the common will and reason of men, i.e. in the will and reason of men as determined by social relations, as interested in each other as acting together for common ends."[89]

Green's argument that a system of laws and rights is based upon common interests independent of the sovereign is the product of his belief that a system of laws and rights is conceptually part of a recognizable political common good. This system of laws and rights nevertheless requires the "...organization of the state, which again requires unity of supreme control, in the common interest, over the outward actions of men."[90] There is for Green no necessary antithesis between liberty and law. Indeed, law is essential to liberty. The basic liberty to be secured is the right to be dealt with in accordance with law. A system of law reduces arbitrariness, and the clear and consistent application of law for Green is the only way in which liberty for an entire society or community is attainable. An individual is not free when he or she is controlled by other individuals, but only when controlled by principles and rules which each and every individual must obey. For Green, the basis of a liberal society is government by the consent of the governed, and consent, not contract, is what creates a moral community that binds its members in a common aim to promote their common welfare. Green maintains that the ideal of a system of laws and rights based upon common interests is implicit in the natural right tradition. Its emphasis upon consent implied a slow transformation from a conception of individuals as servants to that of citizens, and the recognition of common interests and objectives altered the conception of the state from an organ or tool of absolutism to that of a potential partner in the attainment of liberty.

For Green, however, the natural right doctrines of the seventeenth and eighteenth centuries never put the question of the right to resistance on a proper foundation. For example, "[i]t was not asked, When for the sake of the common good the citizen ought to resist the sovereign? but, What sort of injury to person or property gave him a natural right to resist?"[91] Instead of discussing the right of a majority to resist a sovereign, we should, Green counters, discuss the duty of resistance for both a minority and a majority. For in the end there can be no right of a majority of citizens to resist a sovereign.[92] That is, "[i]f, by law, written and customary, the majority of citizens possess or share in the sovereign power, then any conflict that may arise between it and any power cannot be a conflict between it and the sovereign."[93] The conflict would not be over the possession of authority but rather the manner in which it is exercised. Green attempted to transform Rousseau's conception of the general will from its inference that some if not most individuals need to be forced to be free to a common good expressive of social and political principles that shape and guide the institutions of governance.

Green's theory is founded on the idea that a politics dedicated to securing freedom can be established without undermining or destroying the virtues and other habits of good citizenship. He often invokes the conception of a common good and sometimes refers to it as a common will, but such a will should be understood in terms of the will for the common good, and his institutional specification of the common good is in terms of equal rights for all secured by the state. Green had many reservations about the evocation of a general will--he believed the concept did in fact lead to public sophistry and manipulation,[94] with Napoleon III being his example--and he remained steadfastly committed to the idea that to be free is to be capable of making choices, including mistaken, even bad, choices. As virtue (or the good life) could no longer in Green's day--as in our day--be a direct object of public concern in the liberal regime, it is necessary to ensure that there will be respectable private realms for considering and acting on civic and moral virtue. Thus Green's preference was always for voluntary individual effort and voluntary associations freely operating under a generally agreed-upon and specified body of public principles.

The common good in Green's theory is best understood as the establishment of and adherence to public principles of government and individual self-government. Green's conception of politics takes at its core certain prerequisites of citizenship. Individuals acting as citizens are to be active in the community, involved in the political decision-making process, and informed about the needs and interests of other individuals and groups. At a more personal level, individuals are to be self-supporting, knowledgeable, and under a duty to consider means to self-perfection. Such an individual would be one who resided in a community wherein he or she would act responsibly by limiting the kinds of claims to freedom in light of the interests generated by social living. This community though would also be one in which legitimate claims to freedom would be honoured because the stability and endurance of the liberal regime is closely tied to individual initiative and freedom. A dignified life is possible only within a community whose laws, customs, and institutions encourage its citizens to treat each other with both concern and respect, a community where citizens are never discouraged from becoming active and involved. The common good, as embodied in Green's doctrine, represents the belief that a society can be founded and maintained on the self-directing power of individual personalities, and because we cannot ascribe any **a priori** limit to the development of individuals, a free society is one in which individuals are duty-bound to treat each other as rational, purposive beings. The liberal common good prescribes for a system of distributing and limiting the powers of government with the object of preventing arbitrariness and despotism, whether of one, of the few, or of the many. Most importantly, the liberal common good attempts to reconcile freedom, the liberty to pursue a life-plan, with authority, the system of laws to which all must adhere, by supporting individual rights. It is to this role of the state as the sustainer of individual rights to which we will now turn.

4.7. The Rights-Based State

It is somewhat peculiar that a theorist who emphasizes character and motive deemphasizes them in his reassessment of the objectives of the liberal state. In several places Green remarks that individuals can only judge the effects of actions and not motives[95] and that moral duties cannot be enforced.[96] That character and motive should recede as animating topics in his analysis of the liberal state is however consistent with his concern to reassess yet uphold the liberal thesis about the proper scope and limits of the power of the state. Green regarded the state simply as one among many forms of human association for the maintenance and improvement of life. He recognizes that liberty and compulsion have complementary functions, and that an independent, self-governing liberal state is at once the product and the condition of self-governing individuals. The potential congruence between self-governing individuals and self-governing societies was an insight Green gathered from Rousseau's general will. Green was sympathetic to the idea of a general will which represents an ideal of freedom based on equality and fraternity, and while in some respects citizenship may enhance affective ties between individuals in a political society, at no point does he identify common interests with the exercise of sovereign power. Green's concern was with developing from Rousseau's conception of the general will institutional principles that incorporate his own strongly-held conviction that political institutions must create conditions for the realization of human capacities of will and reason while at the same time acting as checks on the exercise of state power.

The state or the sovereign as the characteristic institution of the state does not create rights, but rather articulates and enforces rights already existing within a society. As Green explains, the state "...secures and extends the exercise of powers, which men, influenced in dealing with each other by an idea of common good, had recognised in each other as being capable of direction to that common good, and had already in a certain measure secured to each other in consequence of that recognition. It is not a state unless it does so."[97] A "state" thus is an institution "...having a systematic law in which the rights recognised are expressed and harmonised, and which is enforced by a power strong enough at once to protect a society against disturbance within and aggression from without...."[98] Yet the state is not an aggregation of individuals under a sovereign power; Green argues instead that a state "...presupposes other forms of community, with the rights that arise out of them, and only exists as sustaining, securing, and completing them."[99] The state is a "...territory controlled by a single independent government for the rights of all persons, as founded on their capacities for contributing to a common good,...equally established by one system of law."[100]

Green's essential position on state action is predicated on his conception of the proper limits of law. He argues that the very existence of law informs us that its edicts are not moral duties, for moral duties cannot be enforced. For Green there are duties to act to be sure, and an act can indeed be forced, "...but duties to act from **certain dispositions and with certain motives**...cannot be enforced....There is a moral duty in regard to obligations, but there can be no obligations in regard to moral duties."[101] An external action, Green maintains, "...is a determination of will as exhibited in certain motions of the bodily members which produce certain effects in the material world; not a determination of the will as arising from certain motives and certain dispositions."[102] For Green there are two principles from which to criticize law: (a) that nothing but external acts can be a matter of obligation; (b) in regard to that which can be made a matter of obligation, the question as to what should be made a matter of obligation must be considered with reference to the moral end by which alone law and obligations derive their value. For "[i]n the case of obligations which I am legally punishable for disregarding, the law, in deciding whether punishment is or is not due, takes account of much beside the external act; and this implies that much beside external action is involved in legal obligation."[103] According to Green, from the fact that moral duties cannot be enforced "...arises a limitation to the proper province of law in enforcing acts...."[104]

Green maintains that the limits of law involve the prevention of actions, to do or abstain from certain acts, and not duties of acting from certain motives.[105] A law which extended beyond external acts threatens the "spontaneity" which is "...the condition of the beneficial exercise of rights."[106] As a theoretical principle, "...the state may remove obstacles to the realisation of the capacity for beneficial exercise of rights without defeating its own object by vitiating the spontaneous character of that capacity."[107] It should not be surprising that Green would consider laws enforcing, say, beliefs to be counterproductive. While he signed the thirty-nine articles in order to take the degree of M.A., Green never took his orders and he moreover was the first Oxford don to have wed.[108] These personal idiosyncrasies aside, Green maintains that only outward acts can be made a matter of legal obligation. Is there a class of such acts? Green raises the question of what sort of outward acts should be made a matter of legal obligation. His response is that "[t]hose acts should be a matter of legal injunction or prohibition of which the performance or omission, irrespectively of the motive from which it proceeds, is so necessary to the existence of a society...in which the moral end stated can be realised, that it is better for them to be done or omitted from that unworthy motive which consists in fear or hope of legal consequences than not to be done at all."[109]

Green argues that individuals will accept as legitimate a system of laws and rights based on a particular conception of the good. An individual rule of conduct, he suggests, prohibits "...any action that may suggest itself to him, whether the benefit which he might gain by it for himself or for some one in whom he is interested, would be gained at the expense of any one else, however indifferent to him personally, however separated from him in family, status, or nation."[110] The institutional or political expression of this good Green variously explains as this: (1) any action or policy on the behalf of the state "...must be good for all men, so that no one should seek to gain by another's loss, gain and loss being estimated on the same principle...;"[111] (2) "...is ultimately or in principle an idea of satisfaction for a self that abides and contemplates itself as abiding, but which can only so contemplate itself in identification with some sort of society; which can only look forward to a satisfaction to those in a community with whom alone it can think of itself as continuing to live."[112] The formal feature of this common good is that "...whatever might be the definition of good which [someone] would accept, he should admit the equal title of all men to it in the same sense; that account should be taken of the widest possible range of society that can be brought into view, and that whatever is deemed good for any class or individuals in the society should be deemed good for all its members."[113]

Green thus distinguishes between the system of laws and rights actually maintained and obligations enforced by legal sanctions from the system of relations and obligations which should be maintained by such sanctions. For Green, actions or omissions should be made obligations when they serve certain moral ends. It is these putative moral ends which are the grounds for the justification of legal obligations. Given that the moral end consists in the disposition of the agent, and since action done simply from an apprehension of legal consequences renders the disposition irrelevant, "...no action should be enjoined or prohibited by law of which the injunction or prohibition interferes with actions proceeding from that disposition, and every action should be so enjoined of which the performance is found to produce conditions favourable to action proceeding from that disposition, and of which the legal injunction does not interfere with such action."[114]

The appropriate question for the legislator and the citizen in Green's view is not whether there should be an extensive array of civil liberties ranging from freedom of speech, conscience, and assembly, but rather what kinds of liberties are to be granted and what types of acts should be licensed. This exercise momentarily transforms individuals into citizens and representatives into individuals--all engaged in a common project of clarifying and realising the objectives and ideals of their society. Yet there are problems with Green's conception of the common good. Green often remarks that a theory of community requires devotion to social service, but there are instances when the good of the whole conflicts with the pursuit of individual interests and desires. At some point there must be a tension, and sometimes irreconcilable differences. It is certainly true as Green often explains that social development implies an interest in an object common to all individuals and that there cannot be competition for some political goods such as law and order. In addition, Green's belief that selfishness, "a preference of private pleasure to the common good," is the greatest barrier to a wider recognition of obligations has merit. Yet we are left with two different implications of Green's common good: (a) a minimal area for legitimate state action and a (b) maximal area for private initiative. None of this by itself presents a problem, but it does seem peculiar that a theorist committed to the promotion of self-devotion to others would place formal constraints on both legal and moral obligations such that they are obligations to do or abstain from certain acts and not duties of acting from certain motives or dispositions.

Perhaps the greatest weakness of Green's account revolves around his claim that only outward acts can be made a matter of obligation. What does this mean? In one way it is a straightforward claim that any law which interferes with an individual's conscience, thought, and opinions is inconsistent with the treatment of individuals as ends and thus too is inconsistent with a liberal system of laws and rights. Yet how are we to distinguish an "outward" from an "inward" act? The emphasis Green places on individual motives in his character ethic and on self-devotion and community involvement implies that there is an unusually tight relationship in his theory between inward states and outward acts. Such a close relationship requires that Green devote some attention to the differences between a class of acts that are a matter of legal and moral obligations and those that are not. There is another criticism that is related to the necessity of determining which acts are "outward." He argues that some acts should be performed or prohibited if they are "necessary to the existence of a society." It is unlikely that a liberal society will suffer from instances of civil disobedience, and at any rate the distinction between civil and criminal proceedings provides grounds for distinguishing between various justiciable obligations. Yet we are left with an undeveloped element of Green's account of political obligation. What kinds of acts are "necessary to the existence of a society?" Here again we require some indication as to what class of acts are and are not to be included in this category.

There are also strengths of Green's conception of the common good. The conception distinguishes between an individual's legal obligation to act or forbear on the basis of not interfering with the realisation of other wills and the moral duty to assist in the realisation of other's well-being. Green's explicit insight that obedience is due to a system of laws and rights provides general constraints on the use of coercive power: it is not coercive power as such which makes a state but rather that power combined with other factors, exercised in a certain way and for a certain end. By bringing to the forefront the exercise of coercion, Green reminds his audience that public justification, the requirement that most people agree to the usage of state power for a given end or objective, is a necessary condition for the treatment of individuals as ends in themselves. Finally, Green's argument that there must be a practical pursuit of the good in political and social institutions, arrangements of life, and social requirements undercuts the static theoretical social contract and allows for the maximization of liberty under the rubric of individual well-being.

4.8. The Task of Green's Liberal Theory

One persisting criticism of Green's political theory has been that his kind of idealism leads to unclear and ill-defined limitations to state power. When Green writes, for example, that "...if we regard the state as a sustainer and harmoniser of social relations,...the individual can have no right against the state; that its law must be to him of absolute authority,"[115] it is easy to understand why commentators continue to raise the issue. Yet this chapter has interpreted Green as a theorist who accepts the propriety of the liberal project of examining the nature and limits of the state. His conception of law, for example, is thoroughly liberal insofar as its principles counsel for the creation of laws pertaining only to external acts, and those that extend beyond acts and broach deep convictions and personal interests and values must be considered with reference to the common good. Here Green argues that the ground of political obligation is that "...certain powers should be recognised as belonging to the state and certain other powers are necessary to the fulfilment of man's vocation as a moral being, to an effectual self-devotion to the work of developing the perfect character in himself and others."[116] The former power is that of sovereignty, and the latter is power directed toward a common good. The relationship between the two is this: the state authoritatively acknowledges or affirms that a certain way of acting or of being acted towards is in the interest of all as expressed by a common good, and thus the state either promotes or allows such actions. The state provides the force of a guarantee to individuals that a certain pattern of activity is to be acknowledged and maintained. The common good acts as a check upon the power of the state by disallowing the introduction of laws and thus rights and obligations that are not justifiable in terms of the principles of conduct between individuals within the society.

What distinguishes Green's doctrine from his liberal predecessors is the attention he devotes not to contract but to consent. In fact, Green really did not consider his political philosophy to be one at odds with the objectives of what could be called "natural right liberalism." He saw the doctrines of Spinoza, Hobbes, Locke, and Rousseau as a stage in the development of liberal thinking. Certain ideas and concepts of the natural right tradition are of permanent value: Spinoza's and Hobbes's recognition of the need for a common mind or power to uphold obligations amongst individuals; Locke's sobering reminder that some obligations, if not most, belong to individuals as human beings; and Rousseau's directive of the general will, an interest or bundle of interests common to all. The tradition then is one involving a transformation of individuals into citizens. So when Green, in his discussion of obedience and disobedience, maintains that good citizens make the best of received social institutions, it implies the need for individual participation in the maintenance and operation of common institutions. When he argues that individuals must assess their actions in light of the interest in maintaining social order and the fabric of rights, Green implies that the degree of commitment by citizens to their community is an essential element of a mature liberal politics. Finally, when he urges that citizens assess the value of government in relation to public good, the background assumption is that citizens have a duty to be self-governing in order to provide a part of the standard that comprises the common good.

While Green's principal focus was on the nature and purpose of the state, and hence has been largely understood as a theorist of the state, there also was another object of his attention, one that can be lost sight of when attention is directed at his commentary on social and political institutions. Green was also a philosopher of rights, deeply interested in and committed to supporting a theory of individual rights. In fact, his attempt at reconciling individual rights with a common good is one of the enduring legacies of his **corpus**. Oddly, while Green has a rather minimal view of the state insofar as his principles of state action are concerned, his conception of individual rights is expansive. The interrelationship between individuals as bearers of rights, their duties as citizens, and the role of the state as an institution for the maintenance of rights together will be the object of our analysis in the following chapter.

Endnote

1. Richter, The Politics Of Conscience, p.222.

2. Geoffrey Marshall, Constitutional Theory (Oxford: Oxford University Press, 1971), p.207.

3. Cf. Peter Nicholson, The Political Philosophy of the British Idealists (Cambridge: Cambridge University Press, 1990), p.3.

4. Green, Prolegomena, §203.

5. Ibid.

6. Green, Lectures, §101. I deal with the other three duties to resist in the following chapter. Cf. 5.4. "The Right to Free Life (I): The Right to Negative Liberty."

7. According to Avitol Simhony, there is a "...complete elimination from [Green's] thought of any concern for checking state power which was a central theme of classical liberalism." Cf. her "On Forcing Individuals to be Free," p.320. The debates surrounding the general character of Green's liberal philosophy were examined in the first chapter, specifically 1.4. "Green's Place in the Liberal Tradition." I suggested there that much of the debate over the "liberalness" of Green's thought revolved around ambiguities over "positive liberty" and whether such a conception undermined liberalism's principal objective to limit state action. I nonetheless concur that this remains an important issue, and it is one of my concerns in this chapter to demonstrate how the "common good criterion" can both justify and limit state action.

8. Paul Wilkinson, Terrorism and the Liberal State (London: The MacMillan Press Ltd., 1977), p.4.

9. H.J. McCloskey, "Liberalism," Philosophy Vol.49, No.187 (January 1974), p.28.

10. Macedo, Liberal Virtues, p.53. The emphasis is original.

11. Galston, Liberal Purposes, p.89.

12. Green, Lectures, §49.

13. Green, "Four Lectures On The English Commonwealth," Works Vol.III, p.296.

14. Green, Lectures, §138.

15. Green's comments on the weaknesses of contractarianism neglected the possibility that a contractarian theory could show that reason has a practical role related to but transcending individual interest. David Gauthier informs us that a "...contractarian theory of morals, developed as part of the theory of rational choice, has evident strengths. It enables us to demonstrate the rationality of impartial constraints on the pursuit of individual interest to persons who may take no interest in others' interests. Morality is thus given a sure grounding in a weak and widely accepted conception of practical rationality." Cf. "Overview Of A Theory" in Gauthier's Morals By Agreement (Oxford: Oxford University Press, 1986).

16. Green, Lectures, §116.

17. Ibid., §21.

18. Ibid., §31.

19. Ibid.

20. Ibid., §53.

21. Green, Prolegomena, §199.

22. Ibid., §203.

23. Ibid., §235.

24. Ibid.

25. Ibid., §239.

26. Green must have had in mind the following extraction from the preface to Spinoza's Tractatus Theologico-Politicus:

> ...I begin with the natural right of the individual; this is co-extensive with the individual's right and power. Nobody is bound by natural right to live as another pleases, each man being the guardian of his own freedom. I go on to prove that nobody can really part with this right except by transferring his power of self-defence to another, and he to whom each man has transferred his right to live as he pleases together with his power of self-defence and necessarily retain absolute control over this natural right. Hence I shall show that those who hold the sovereign possess the right over everything that is within their power and are the sole guardians of law and freedom, and that subjects should act in all

> matters solely in accordance with the sovereign's decree. However, since nobody can so deprive himself of the power of self-defence as to cease to be a human being, I conclude that nobody can be absolutely deprived of his natural right, and that by a quasi-natural right subjects do retain some rights which cannot be taken from them without imperilling the state, and which therefore are either tacitly conceded or explicitly agreed by the rulers.

Cf. Spinoza, Tractatus, Samuel Shirley trans., (New York: E.J. Brill, 1989), pp.55-56.

27. In Spinoza's words,

> [b]y the right and established order of Nature I mean simply the rules governing the nature of every individual thing, according to which we conceive it as naturally determined to exist and to act in a definite way. For example, fish are determined by nature to swim, and the big ones to eat the smaller ones, Thus it is by sovereign natural right that fish inhabit water, and the big ones eat the smaller ones. For it is certain that Nature, taken in the absolute sense, has the sovereign right to do all that she can do; that is, Nature's right is co-extensive with her power. For Nature's power is the very power of God who has sovereign right over all things. But since the universal power of Nature as a whole is nothing but the power of all individual things taken together, it follows that each individual thing has the sovereign right to do all that it can do; i.e. the right of the individual is co-extensive with its determinate power.

Cf. Ibid., p.237.

28. Spinoza is not entirely consistent with the efficacy of reason once confronted with natural desires--even in a civil and not natural state--but Green must have had the following in mind:

> ...in a state of nature reason possesses no more right that does appetite, and those who live in accordance with the laws of appetite have just as much right to everything within their power as those who live in accordance with the laws of reason.

Cf. Ibid., p.281.

29. Spinoza does discuss civil law, although which passage Green is referring to is not clear. Perhaps it is this:

> The word law, taken in its absolute sense, means that according to which each individual thing--either all in general or those of the same kind--act in one and the same fixed and determinate manner, this manner depending either on Nature's necessity or on human will. A law which depends on nature's necessity is one which necessarily follows from the very nature of the thing, that is, its definition; a law which depends on human will, and which could more properly be termed a statute (ius), is one which men ordain for themselves and for others with view to making life more secure and more convenient, and for other reasons.

Cf. Ibid., p.101.

30. Spinoza explains as follows on the development from a natural to a civil state:

> ...there cannot be any doubt as to how much more it is to men's advantage to live in accordance with the laws and sure dictates of our reason, which...aim only at the true good of men. Furthermore, there is nobody who does not desire to live in safety free from fear, as far is possible. But this cannot come about as long as every individual is permitted to do just as he pleases, and reason can claim no more right than hatred and anger....And if we reflect that the life of men without mutual assistance must necessarily be most wretched and must lack the cultivation of reason,...it will become quite clear to us that, in order to a secure and good life, men had necessarily to unite in one body. They therefore arranged that the unrestricted right naturally possessed by each individual should be put into common ownership, and that this right should no longer be determined by the strength and appetite of the individual, but by the power and will of all together. Yet in this they would have failed, had appetite been their only guide..., and so they had to bind themselves by the most stringent pledges to be guided in all matters only by the dictates of reason...and to keep appetite in check in so far as it tends to another's hurt, to do to no one what they would not want done to themselves, and to uphold another's right as they would their own.

Cf. Ibid., p.239.

31. Spinoza writes:

> ...since we have already demonstrated that everyone's natural right is determined by his power alone, it follows that to the extent that each transfers his power to another, whether done by force or voluntarily, to that extent he also necessarily surrenders his right to him, and the sovereign right over all men is held by him who holds the supreme power whereby he can compel all by force and coerce them by threat of the supreme penalty, universally feared by all. This right he will retain only as long as he has this power of carrying out into execution whatever he wills; otherwise his rule will be precarious, and nobody who is stronger than he will obey him unless he so wishes.

Cf. Ibid., p.241.

32. Green again must have the following passages from Spinoza in mind: "...it is our duty to carry out all the orders of the sovereign power without exception, even if those orders are quite irrational. For reason bids us carry out such orders, so as to choose the lesser of two evils. It is for the sovereign power alone...to have regard to [the public good], while it is for the subjects...to carry out its orders and to acknowledge no other right but that which the sovereign power declares to be right." Cf. Ibid., p.242.

33. The textual evidence for this understanding of Spinoza by Green was likely the result of these two passages. Since the collective body called the state is co-extensive with the power of nature, "...it follows that Nature's right and her established order, under which all men are born and for the most part live, **forbids only those things that no one desires and no one can do....**" Elsewhere Spinoza writes that the ultimate purpose of the state "...is not to exercise dominion nor to restrain men by fear and deprive them of independence, but on the contrary to free every man from fear so that he may live in security as far as is possible, that is, so that he may best preserve his **own natural right to exist and act, without harm to itself and to others.**" Cf. Ibid., p.238 and pp.292-293. The emphasis is mine.

34. Green, Lectures, §36.

35. Ibid.

36. Ibid., §37.

37. Ibid.

38. Ibid., §38.

39. Spinoza writes that a scientific explanation of an event is an explanation by "first causes," and that all objects worthy of desire can only be understood through knowledge of their "primary causes." Cf. Spinoza, Tractatus, p.72 and p.90. Hobbes too rejected explanations by final causes. In the Leviathan, he explains that an individual's ability to order thoughts obviously presupposes some ordering capacity of the mind. For Hobbes, this capacity is reason, which is a "reckoning," an ability to add and subtract the consequences of accepted general names. Hobbes more than hints that the failure by individuals to agree upon a methodology of searching for proper reasoning has not been beneficial to social order. His prescription for the use and end of reason is to begin at the settled significations of words and proceed from one consequence to another. In other words, the function of reason is not to find a truth remote from first principles, but rather to examine what he saw as the elementary composition of knowledge, i.e., words. Elsewhere, Hobbes explains that the knowledge of consequences, which is called science, is conditional and not absolute, for it is not a chain of consequence from one thing to another but one name to another. Cf. Thomas Hobbes, Leviathan, Richard Tuck, ed. (Cambridge: Cambridge University Press, 1991), pp.18-22 and 30-33.

40. Green, Lectures, §40. The emphasis is original.

41. Ibid., §42.

42. Ibid.

43. Indeed, Hobbes's third law of nature is this:

> ...That men performe their Covenants made: without which, Covenants are in vain, and but Empty words....And in this law of Nature, consisteth the Fountain and Originall of JUSTICE. For Where no Covenant hath preceded, there hath no right been transferred, and every man has right to everything; and consequently, no action can be Unjust. But when a Covenant is made, then to break it is Unjust: And the definition of INJUSTICE, is no other than the not Performance of Covenant. And whatsoever is not Unjust, is Just.

Cf. Hobbes, Leviathan, p.100.

44. Green, Lectures, §44. Green likely had this passage from Hobbes in mind:

> And in him consisteth the Essence of the Commonwealth; which (to define it,) is One Person, of whose Acts a great Multitude, by mutuall Covenants with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence. And he that carryeth this Person, is called SOVERAIGNE, and said to have Soveraigne Power; and every one besides, his SUBJECT.

Cf. Hobbes, Ibid., p.121.

45. Green, Lectures, §46.

46. Green is not being entirely fair with Hobbes here, but we can easily detect why this is so. It is clear that when Hobbes writes in chapter 14 of the Leviathan that for an individual "To lay downe a Right to any thing, is to divest himselfe of the Liberty, of hindring another of the benefit of his own Right to the same," an individual also retains the right to defend itself, even against sovereign decrees. Green however likely had his attention focused on Chapter 18 where Hobbes addresses how a sovereign attains power by agreement. Consider some of the following consequences when a multitude agree and covenant that either an individual or assembly of individuals have the right to represent them: those already under covenant to a regime cannot alter its form or rebel; the sovereign may not forfeit its power; a dissenter must submit to the majority (i.e., the sovereign); no sovereign may be punished; to the sovereign is annexed the whole power of prescribing rules, goods, and actions to be done; and to the sovereign belongs the power to grant titles of honour, to appoint what dignity each individual shall have, and also what signs of respect shall be used between subjects. Cf. Hobbes, Leviathan, pp.88-94.

47. Green, Lectures, §118.

48. Ibid., §55.

49. Green, Prolegomena, §279.

50. Green, Lectures, §54. The emphasis is original.

51. Ibid., §55.

52. Cf. Locke, Two Treatises of Government, Peter Laslett, ed. (Cambridge: Cambridge University Press, 1961), Book II,§4.

53. Green may have had the following passages from Locke in mind:

> every one as he is bound to preserve himself, and not to quit his Station wilfully; so by like reason when his own Preservation comes not into competition, ought he, as much as he can, to preserve the rest of Mankind, and may not unless it be to do Justice on an Offender, take away, or impair the life, or what tends to the Preservation of the Life, the Liberty, Health, Limb or Goods of another.
>
> The Obligations of the Law of Nature, cease not in Society, but only in many Cases are drawn closer, and have by Humane Laws known Penalties annexed to them to enforce their observation. Thus the Law of Nature stands as an Eternal Rule to all Men, Legislators as well as others.

Cf. Ibid., II,§6 and II,§135.

54. Locke is somewhat unclear about the formation of political society, but he does make the following comments: when individuals agree to give up their natural powers to the community, it is accomplished by "...barely agreeing to unite into one Political Society, which is all the Compact that is, or needs be, between the Individuals, that enter into, or make up a Common-wealth." Voluntary submission (i.e., no coercion) and rational recognition of the terms of the compact (i.e., its conditions must be understood by all) must be the preconditions enveloping the development from a natural to a political state. Cf. Locke, Two Treatises, II,§99.

55. For Locke, the legislature is not immune to the commands of lawfully-wielded power. It cannot with legitimacy

> ...be Absolutely Arbitrary over the Lives and Fortunes of the People. For it being but the joynt power of every Member of the Society given up to that Person, or Assembly, which is Legislator, it can be no more than those persons had in the State of Nature before they enter'd into Society, and gave up to the Community. For no body can transfer to another more power than he has in himself; and no Body has an absolutely Arbitrary Power over himself, or over any other, to destroy his own Life, or take away the Life or Property of another. A man...cannot subject himself to the Arbitrary Power of another; and having in the State of Nature no Arbitrary Power over the Life, Liberty, or Possession of another, but only so much as the Law of Nature gave him for the preservation of himself, and the rest of Mankind; this is all he doth, or can give up to the Common-wealth, and by it to the

> Legislative Power, so that the Legislative can have no more than this. Their Power in the utmost Bounds of it, is limited to the Publick good of the Society. It is a Power, that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the Subjects.

Cf. Ibid., II,§135.

56. Locke places strict limitations upon the powers of both executives and legislators in that all right and power inhering in individuals--to life, liberty, and property--is right or power not transferable. Yet elsewhere Locke seems to suggest that it is acceptable that the majority has "...the whole power of the Community, naturally in them...." Additionally, "Voluntary Agreement gives...Political Power to Governours...," and political power is the absolute power of life and death:

> Political Power...I take to be a Right of making Laws with Penalties of death, and consequently all less Penalties, for the Regulating and Preserving of Property, and of employing the force of the Community, in the Execution of such Laws, and in defence of the Common-wealth from Foreign Injury.

Cf. Ibid., II,§3, §135, and §173.

57. Green, Lectures, §62.

58. Ibid., §61.

59. Ibid., §63.

60. According to Rousseau,

> ...only the general will can direct the forces of the state according to the purpose for which it was instituted, which is the common good. For if the opposition of private interests made necessary the establishment of societies, it is the accord of these same interests that made it possible. It is what these different interests have in common that forms the social bond, and, were there no point of agreement among these interests, no society could exist. For it is utterly on the basis of this common interest that society ought to be governed. I therefore maintain that since sovereignty is merely the exercise of the general will, it can never be alienated, and that the sovereign, which is only a collective being, cannot be represented

> by anything but itself. Power can perfectly well be transmitted, but not the will.

Cf. Jean-Jacques Rousseau, On The Social Contract, Donald A. Cress, trans. (Indianapolis: Hackett Publishing Company, 1983), Book II, Chapter I.

61. The fundamental problem the Social Contract addresses is whether we can

> [f]ind a form of association which defends and protects with all common forces the person and goods of each associate, and by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before.

Cf. Ibid., Book I, Chapter VI.

62. On sovereign power Rousseau writes:

> [i]t must be...noted that the public deliberation that can obligate all the subjects to the sovereign, owing to the two different relationships in which each of them is viewed, cannot, for the opposite reason, obligate the sovereign to itself, and that consequently it is contrary to the nature of the body politic that the sovereign impose upon itself a law it could not break. Since the sovereign can be considered under but one single relationship, it is then in the position of a private individual contracting with himself. Whence it is apparent that there neither is nor can be any type of fundamental law that is obligatory for the people as a body, not even the social contract.

Cf. Ibid., Book I, Chapter VII.

63. For Rousseau the transformation from a state of nature to a civil state

> ...produces quite a remarkable change in man, for it substitutes justice for instinct in his behaviour and gives his actions a moral quality they previously lacked....Although in this state he deprives himself of several of the advantages belonging to him in the state of nature, he regains such great ones. His faculties are exercised and developed, his ideas are broadened, his feelings are ennobled, his entire soul is elevated to such a height that, if the abuse of this new condition did not often lower his status to beneath the level he left, he ought constantly to bless the happy moment

> that pulled him away from it forever and which transformed him from a stupid, limited animal into an intelligent being and a man.

Cf. *Ibid*., Book I, Chapter VIII.

64. *Ibid*., Book IV, Chapter II.

65. Green, *Lectures*, §75.

66. *Ibid*., §77.

67. *Ibid*.

68. *Ibid*., §84.

69. *Ibid*., §92.

70. *Ibid*., §99.

71. *Ibid*., §100.

72. *Ibid*., §112.

73. *Ibid*., §93.

74. *Ibid*., §79.

75. *Ibid*., §132.

76. Green, *Lectures*, §92.

77. *Ibid*., §8.

78. *Ibid*., §7.

79. *Ibid*., §1.

80. *Ibid*., §9.

81. Green, *Prolegomena*, §184. The emphasis is original.

82. Green, *Lectures*., §4.

83. *Ibid*.

84. Green, *Prolegomena*, §209.

85. Green, *Lectures*, §91.

86. *Ibid*., §90.

87. Ibid., §118.

88. Green, Prolegomena, §184.

89. Green, Lectures, §92.

90. Ibid., §106.

91. Ibid., §107.

92. Ibid., §108.

93. Ibid.

94. Ibid., §69.

95. Green, Prolegomena, §296.

96. Green, Lectures, §10.

97. Ibid., §132.

98. Ibid., §133.

99. Ibid., §134.

100. Ibid., §172.

101. Ibid., 10. The emphasis is original.

102. Ibid., §13.

103. Ibid., §12.

104. Ibid., §10.

105. Ibid., §14.

106. Ibid., §209.

107. Ibid., §210.

108. Why such irreverence? For Green, Christianity "...does not belong, like dogma, to the sphere of reasoned, or authorised opinion, but to that of intuition or inspiration, which rejects authority, admits not of a reason why, because itself its own witness and its own demonstration." Cf. his "Essay On Christian Dogma" in Works III, p.169.

109. Green, Lectures, §15.

110. Green, Prolegomena, §212.

111. *Ibid*., §240.

112. *Ibid*., §232.

113. Green, *Lectures*, §332.

114. *Ibid*., §16.

115. *Ibid*., §143.

116. *Ibid*., §23.

Chapter Five:

Liberties, Entitlements, and Common Purposes: The Elements of Green's Theory of Rights

5.1. Individual Rights and a Common Good

When Green examines what it means to assert that the state possesses political authority over individuals or other groups, we are presented with the first readily recognizable methodological connection between his political philosophy and the liberal tradition. Locke and Mill too explore the nature and legitimate limits of the power and authority exercised by society over individuals. More specifically, their objectives centered around accommodating individual liberty within a social (i.e., traditions, customs, mores) and political (i.e., constitutional, common law, and public policy) context. Such a liberal project once again ought to be in mind when Green attempts to clarify the principle which would allow an individual's primary "right to free life" as he calls it to be overridden. The similarity between Green's theory of rights and Locke's and Mill's ends here. Unlike Locke, who considered the right to life and liberty (but not the right to property) as self-evident claims, and Mill, who was preoccupied with harmonizing utility and liberty, Green painstakingly erected an elaborate argument in support of a basic and primary right to free life.

Green presents three categories of rights, two of which, property and family rights, are undeveloped[1]. The third, broader category of rights that in Green's theory falls under the heading of a general "right to free life" provides us with a basis for a detailed and systematic theory of individual rights. One of the more provocative features of Green's theory of rights is his conviction that there is no inherent or necessary tension between individual liberty-claims and a common good. The theory of rights found in Green's Lectures attempts to combine liberal, individual rights with a commonly-accepted and -recognized social good. He considered it important to provide such a potentially troublesome general theory of rights[2] because viewing the state merely as an aggregation of individuals under a sovereign power capable of compelling obedience raises the basic question, By what right does the sovereign compel me to obey? There were two liberal responses to this question: either (1) portraying consent through a fictitious social contract, or (2) representing the rights of individuals as derived from the sovereign--both of which place individual rights in a precarious and uncertain position when a conflict arises with the state. Such sheer authority over the individual, Green explains, confuses "I ought" with "I am forced to."[3]

The consistent contrast Green draws between the exercise of sovereign power and the maintenance of a system of individual rights illuminates his desire to disengage individual rights from the exercise of sovereignty. In fact, Green refuses to identify unqualified sovereignty, whether conceived as located in the state or in the people as a corporate body, with either individual rights or a common good. When Green launched his internal critique of the liberal contractarian tradition and found that the significance of the contract lies in what is presupposed by contractarian obligations, i.e., an object or good common to all, the conclusion he drew was that individual rights were not given a proper foundation. Oddly, however, the utilitarian attempt to secure individual liberty failed in Green's eyes not because it attempts to make comparable two different concepts--the aggregative principles of utility cannot be made harmonious with the distributive principles undergirding liberty--but because the duty to obey the system of rights is predicated upon fear.

A crucial insight Green derived from the liberal contractarian tradition was that obedience derives from a commonly-accepted and recognized social good, and that a system of laws and rights must be voluntarily recognized as just. The force of the argument was so intoxicating for Green that he formed the elements of a theory of rights based on a common good. When Green invokes the term common good, what he means is that a liberal system of laws and rights must be general enough to be justifiable in terms of moral and political values that most reasonable persons with good-will would accept as legitimate. A theory of individual rights based on a common good is the most interesting of Green's claims, and it also is a theory of rights which contains some promise of justifying the kinds of rights that most liberals would wish to uphold. The two most recognizable devices for justifying liberal rights and political institutions--the social contract and the veil of ignorance--have not been entirely successful. Recent attempts to provide justification of individual rights by neutrality, dialogue, and equal respect are worse candidates because there is no important connection between neutrality, dialogue, equal respect and rights in general.[4] Whatever "neutrality" means, it offers no insight into the general question of rights[5] and makes no contribution to the resolution of specific issues raised in liberal ethical theory.[6]

Green's general and foundational right to free life is in effect three rights: it is a right to life, and is a right to two kinds of liberty, negative and positive. The right to free life is what I will call a "compound right," a fundamental and general right that carries within it putative liberty- and entitlement- claims. So the objective of this chapter is to explore the various meanings of this right to free life and bring them together into a workable and systematic theory of rights. We have enough textual evidence at our disposal to presume that Green meant for the right to free life (the rights to life and liberty) to be a basic and foundational right, and thus more important than the right to property and other derivative rights. The compound "right to free life" has the following virtues: the right is general enough that it concerns only outwards acts (and not the motives and character of individuals), it distinguishes between various kinds of rights within the liberal political order, and lastly justifies the inclusion or absence of various liberty-claims within a liberal regime--all according to the "common good criterion."

Briefly, the argument will be as follows. Section 5.2. determines what it means when Green states that the legitimacy of a specific liberty-claim is dependent upon recognition. Section 5.3. will examine and outline the implications of the elemental right to life. The most important contribution Green makes here is the removal of the right to life from its basis in the sovereign. Green severs the right to life from the requirement of recognition based on a common good and concludes it is the most elementary and immutable right. Sections 5.4. and 5.5. together distinguish between a liberty-claim (a forbearance) and an entitlement-claim by the distinction Green provides between the concepts of negative and positive liberty. This interpretation of Green's theory of rights brings forth an unrecognized element of his theory concerning distinctive and general political rights as opposed to private rights such as those to property or some other entitlement right. The argument here will be that Green intended rights based upon positive liberty to embody definitive liberal rights, ones based upon public, liberal political objectives. Section 5.6. concludes the chapter by assessing the common good criterion in light of its place in Green's general theory of rights.

5.2. Social Recognition

Green often argues that the legitimacy of a liberty-claim is dependent upon what he calls "social recognition." For example, he writes that "[a] right is a power claimed and recognized as contributing to a common good. A right against society, in distinction from a right to be treated as a member of society, is a contradiction in terms."[7] Or elsewhere, "[a] right is a power of which the exercise by the individual or by some body of men is recognized by a society, either as itself directly essential to a common good or as conferred by an authority of which the maintenance is recognized as so essential."[8] Again, "[t]here can be no right without a consciousness [or recognition] of common interest on the part of members of a society."[9] Once more, a "...right is a power...secured to an individual by the community, on the supposition that its exercise contributes to the good of the community."[10] His strongest statement to this effect is that "...rights are made by recognition."[11] Such statements on Green's part indicate that he intended the legitimacy of a specific liberty-claim to be dependent on the recognition of either (or a combination of) a community of individuals or the sovereign as representing the express wishes and desires of such a community. Green has three formal conditions required for the legitimacy of a rights-claim: (1) it is invoked on the basis of a common good, (2) that society recognizes this claim on the same basis, and (3) that the sovereign recognises the claim on the same grounds as does a society.

Green does not directly address what recognition means or implies, although he does indicate in several places how we can interpret the requirement. In his brief discussion of property rights, Green infers that what individuals are to recognize in liberty-claims are in part social customs. He envisions a three-fold development in the idea of a common interest or good that begins first with the development of an interest that people ought to recognize collectively (in this instance, a universal desire to acquire objects of our interests), second with the establishment of a custom (that we need to establish conditions for legitimate acquisitions), ending with the custom becoming expressed in the common law tradition. This development of a common interest or good Green calls "customary recognition."[12] In his analysis of family rights, he supplies us with a juridical conception of social recognition which suggests the requirement of recognition is akin to the customary principles which constitute judicial precedent and the **ratio decidendi** of a particular judicial decision.[13] We could say, then, that what Green had in mind by the requirement of "recognition" is the development of social and political principles codified in a constitution that effectively guide the conduct of representatives in political institutions and judges in common law decisions.

While there is nothing problematic at the surface about social recognition thus construed, there are problems with (or perhaps ambiguities about) the role the requirement plays in Green's theory of individual rights. While Green's somewhat juridical understanding of recognition as being comprised of social custom is a reasonable way from which we may understand the development of social and political principles, it remains unclear how the requirement is to be applied to specific liberty-claims. There is a strong and weak sense in which the requirement could be understood. The strong sense would have it that social recognition is a necessary condition of the legitimacy of a liberty-claim, but this would seem an unduly rigorous requirement. If what Green envisioned was a liberty-claim requiring a necessary link with an accepted conception of social good or common interest, then such a test would likely be incapable of generating any rights at all. For example, while it may be a sufficient condition for a society committed to open and free enquiry that there be a general right to freedom of thought and association, it is not a necessary condition. There is a weaker version of the requirement, though, which indicates that a liberty-claim needs either to be congruent with the principles of the common law and a constitution or consistent with social and political principles of a liberal regime that most, if not all, could accept. While Green's language is quite forceful on the requirement of recognition, his usage of custom and the common law indicates that he had in mind the weaker understanding.

However we choose to interpret the requirement of recognition, it would still suggest that there can be no right to disobey laws, and it brings home the problem of social recognition as precondition of liberty-claims. At first glance, there appears in Green's account to be no right to disobey laws or exercise individual powers that the laws forbid. He makes it clear that since it is "...the social recognition grounded on that reference [to a common good] that has rendered certain of [a citizen's] powers rights..." no right can be claimed against the regulation of one's liberty "...for every right...possessed has been dependent on that social judgment of its compatibility with general well-being...."[14] To suggest that we have rights against others or society is misleading, Green maintains, because no citizen can "...have any right against the state, in the sense of a right to act otherwise than as a member of the state. For a citizen this is as much a contradiction as the right of a man to act otherwise than as a member of some society; the state being for its members the society of societies--the society in which all their claims upon each other are mutually adjusted."[15] More directly, Green argues that no one "...has a right to resist a law or ordinance of government....If the common interest requires it, no right can be alleged against it."[16]

It would be exceedingly illiberal of Green not to take civil disobedience seriously, and thus it is not surprising that he (a) recognizes such concerns with the doctrine of social recognition and (b) outlines conditions that justify disobedience. Green notes that the requirement of social recognition could be used to legitimate social practices wholeheartedly at odds with the objectives of an ideal liberal society.[17] The requirement could sanction a rigid commitment to social roles and practices that effectively quash individuality and autonomy. Green maintains, however, that no state law can legitimately neutralize the right of individuals to be treated as capable of conceiving and acting upon a good for him- or herself and others.[18] More specifically, he argues as follows: (1) if there are no legal means to repeal a law, (2) the legal authority of the sovereign is in question, (3) the system of law and government is infected "...by private interests hostile to the public...," or similarly (4) if the authority from which laws proceed is inconsistent with the ends of a liberal state--if any one or all of these conditions prevail--then individuals are entitled (even duty-bound) to disobey the laws.[19] It is peculiar that in his examination of moral and legal obligations, not once does Green overtly refer to the general right to free life, although we could presume that the illegitimacy of a law which failed to treat individuals as capable of deciding and acting upon their various conceptions of good is already an implicit appeal to the right to free life. It is clear, though, that for Green individuals are entitled to engage in civil disobedience, and this is as much to grant that there are liberty-claims that are legitimate irrespective of recognition by others. The state can enact measures that in effect release individuals from a moral obligation to obey the law, policy, or legislation, and in such cases the "...obligation to observe the law, because it is the law, does not exist...."[20]

The antinomy between requiring that rights be socially recognized and maintaining that there are rights that can be violated irrespective of their recognition results from Green's attempt to fuse two conceptions of rights. He notes that the legitimacy of a liberty-claim "...depends on the conception of the individual as being what he is in virtue of a function which he has to fulfil relatively to a certain end, that end being the common well-being of a society....It is not in so far as I can do this or that that I have a right to do this or that, but so far as I recognize myself and am recognized by others as able to do this or that for the sake of a common good, or so far as in the consciousness of myself and others I have a function relative to this end."[21] Yet Green argues that in "...analysing the nature of any right, we may conveniently look at it on two sides, and consider it as on the one hand a claim of the individual, arising out of his rational nature, to the free exercise of some faculty; on the other, as a concession of that claim by society, a power given to the individual of putting the claim in force by society. But we must be on our guard against supposing that these distinguishable sides have any really separate existence."[22]

The requirement of social recognition appears to be a requirement that entails a liberty-claim be made congruent with the principles of a liberal political order. Such an interpretation may not make it any less burdensome to determine which liberty-claims are or are not legitimate, but interpreting the requirement as a necessary condition would make nonsense of Green's defence of disobedience. Moreover, he goes so far to assert that an individual "...has rights which the state neither gives, nor can take away, and they amount to or constitute a right to freedom...."[23] This is a striking claim on Green's part, and one that would be meaningless if we interpret social recognition in strong terms. It would seem that there is only one way to reconcile Green's general argument that individual rights require recognition with both his defence of civil disobedience and his claim that there are pre-political (i.e., basic and immutable individual) rights to freedom. That, it will be shown, is by removing the right to life and the rights to negative liberty from the general requirement of social recognition. This interpretation of Green's theory of individual rights requires that we disentangle the conceptual elements of the compound right to free life into (a) the right to life, (b) the right to negative liberty, and (c) the right to positive liberty.

5.3. The Right to Free Life (I): The Right to Life

The right to life is the most basic element of the compound right to free life. As Green explains, the right to life "...is not a right which it rests with a man to retain or give up at his pleasure....The individual can no more voluntarily rid himself of it than he can of the social capacity, the human nature, on which it is founded."[24] Indeed, he notes that the right to life "...is the most important of all rights...."[25] Yet the fundamental objective of the state is to provide peace and security for its citizenry, and this objective raises the possibility of an exercise of political power that conflicts with an individual's right to life. In order to procure peace and security, the state will call for sacrifices on the part of individuals, even extraordinary ones such as life itself. Moreover, the state, in order to maintain a general system of rights, must ensure that those who fail to abide by the law are punished in some manner. The liberal state's responsibility both to defend the national interest and sustain a system of rights is certainly a powerful right in the sense that it is a combined power of some form that is equivalent in force to the power of life and death. As Green puts it, the power of the state "...is compulsive in the sense that it operates on the individual in the last resort through the fear of death."[26] The parallel treatment by Green of the state's right to protect its citizenry and to punish domestic breaches of right is not coincidental, for together they represent a power or authority against other agents (i.e., other states and individuals). The stark contrast Green draws between the individual's right to life and the exercise of executive power is his heuristic "state of nature," the beginning of his justification of a right to life.

Green raises four general questions about the compound right to free life and how it can conflict with the state. They are:

> ...(1) With what right do the necessities of war override the individual's right of life? (2) In what relation do the rights of states to act for their own interest stand to that right of human society, as such, of which the existence is implied in the possession of right by the individual as a member of that society, irrespectively of the laws of particular states? (3) On what principle is it to be assumed that the individual by a certain conduct of his own forfeits the right of free life, so that the state...is entitled to subject him to force--to treat him as an animal or a thing? Is this forfeiture ever so absolute and final that the state is justified in taking away his life? (4) What is the nature and extent of the individual's claim to be enabled to realise that capacity for contributing to a social good, which is the foundation of his right to free life?[27]

Our immediate concerns in explicating the right to life revolve around Green's answers to questions (1) and (3). Question (2) essentially inquires into obedience and disobedience to the laws, and we had occasion in the previous section to explore Green's response. Question (4) appears to be directed at a category of rights Green calls "political or civil," the topic of which will be examined later in this chapter.

To turn to question (1), is there a principle that can justify the loss of individual life in a state of war? Green understands that the state's primary objective is to ensure the basic security of individuals, and this entails the possibility that a state may have to exercise force against another state. He argues that war itself is a "...great wrong..." and is "...a violation on a multitudinous scale of the individual's right to life."[28] A degree of precision is necessary here on the meaning of Green's question, Is there a principle that can justify the loss of life in war? For if the presumption is that war is almost always a violation of an individual's right to life, then it is difficult to understand how, even in terms of collective self-defence, it is justifiable to engage in war against other states with the knowledge that loss of life will occur.[29] The claim that war is a violation on a "multitudinous scale" of the individual's right to life has been answered by fiat, but this does not appear to be the point Green is attempting to convey.

Green differentiates between asking whether a given war is just and asking whether there is a justification for the loss of life during a war. His argument is not that there can never be justification for the loss of life during a war, but rather that if war is a violation of the right to life then what viol[illegible]e right cannot be answered by reference solely to the rig[illegible]fe itself. For if, as Green asks, "...there is such a thing as a right to life, on the part of the individual man as such, is there any reason to doubt that this right is violated in the case of every man killed in war?"[30] Casualties of war are caused by human agency, and in particular intentional agency, and an absence of malice on the part of those acting in the interests of the state does not in the end preclude war as a violation of the right to life. Even in an instance where an army is composed of volunteer corps, Green maintains steadfastly that the right to life is violated on the part of those who perish.

Green's treatment of the justification of the loss of life during war is in one manner too abbreviated but in another instructive. He takes a somewhat predictable stance by arguing that a properly-organized state--one whose primary function is to harmonize rights--cannot be said to be in conflict with other states. Here the presumption is that an international community of liberal states would be a community of universal peace and justice. There is, Green maintains, nothing in the nature of a state that makes conflict between states inevitable or which makes the gains of one arise only at the expense of others.[31] The idea that states operate within a reasonably cooperative system of states of course is contentious and perhaps even naive on Green's part. Yet he does correctly point out that there is nothing inherently part of the organization of the state that makes war a necessary feature of a system of states. It is not the "state" in the abstract but rather particular states that are responsible for the damage and suffering inflicted on societies by war, and states in general are not entitled to act in any manner they so choose to defend national interests.

It is this latter supposition, that states cannot enact any desired policy to uphold national interests, that is worth highlighting. States, Green argues, are not justified in enacting policies irrespectively of their effects on individuals. Because a state happens to possess a right to defend the national interest, it hardly makes the case by itself that the invested agent is entitled to wield the right in any manner it so chooses. Such reasoning on Green's part indicates that the right to life is a right that can never legitimately be transferred or assigned to another agent, let alone alienated by another agent. His general considerations on the justification of war are somewhat muddled, for it is difficult to understand how any agent or institution--in this case the state--could incur an obligation to provide security without simultaneously possessing a right of some form, that is, a right to something, a permission to act in a manner not forbidden by any positive law or moral rule. Moreover, while perhaps just a terminological lapse, Green's argument that the state possesses a right to declare war is confusing and potentially incoherent. If the state presumably possesses a right to declare war, then the analogy would indicate the need for a much more detailed conceptual showdown between two different rights. For example, given that the state possesses a right to declare war, the right must derive its force on grounds completely different from an individual's right to life. Whatever this greater interest or need consists of is unclear in Green's account, and it is unfortunate since we would want to know the kinds of conditions that justify a particular war.[32]

To see the further development of the individual's right to life in Green's account, we need to turn to his analysis of retributive justice. Just as a state within a system of states acts contrary to its purpose if its decisions and actions are inconsistent with the established principles of the system of states, in an analogous manner in a condition where private vengeance for harms inflicted upon individuals were the practice there simply would not be any rights at all. Green properly questioned how so many seventeenth- and eighteenth-century theorists could have created sovereignty from a right to self-defence and self-vindication. As he explains, a "...right of private vengeance is an impossibility; for just so far as the vengeance is private, the individual in executing it is exercising a power not derived from society nor regulated by reference to social good, and such a power is not a right."[33] If there are any conceptual similarities, he continues, between a state punishing individuals for a crime that arouses high public passions or occasions feelings of private vengeance, then the similarity is merely because the punishment "...borrows the language of private revenge, just as the love of God borrows the language of sensuous affection."[34]

Green thus distinguishes between punishment as vengeance and punishment as a right. He rejects the notion that a state can act in a vengeful manner to those who contravene laws or whose actions or conduct impinge upon the right to life.[35] A state and its agents acting through settled, impartial, and general laws cannot justifiably act in such a fashion. Yet public indignation or collective sentiment--a desire to see that a wrong needs to be rectified or even avenged--against infractions of right "...is inseparable from the interest in social well-being, and along with it is the chief agent in the establishment and maintenance of legal punishment."[36] For Green, the foundation of a system of rights requires broad consensus concerning what kinds of violations of right are necessary to sustain the general system of rights. Here then we have another insight about retributive justice. The state's right as it were to punish offenders of right must be undertaken on the basis that a violation of right or failure to undertake an obligation related to the right is necessary for the maintenance of a general system of rights. The upshot of the discussion is that rights are liberties of action or acquisition which there is a real public interest in maintaining.[37]

Punishment is justified when an act by an individual, knowingly and intentionally, interfered with the freedom and right of other individuals which the public has a large interest in upholding. Any intentional violation of a right or rights must be punished on the principle, Green argues, "...that social well-being suffers more from violation of any established right, whatever the nature of the right, than from the establishment as a right of a power which should not be so established....The justice of the punishment depends [also]...on the question whether the social organization in which a criminal has lived and acted is one that has given him a fair chance of not being a criminal."[38] The justice of punishment depends upon the justice of the established system of right--more specifically, whether the agent who violated a right is one capable of intentional and knowing actions. It is purposeless, for example, to exact punishment in accordance with a violation of right in instances where an individual is unaware that he or she is violating a right and moreover is not responsible for not knowing it. Such instances would include disputes over interpretations of contracts or ownership of property, and Green simply is following the British common law tradition insofar as the mere dispossession of property by itself is not grounds for legal complaint. It again would be useless to punish a breach of obligation where the person knows it to be so but is an obligation which someone has no means of fulfilling, for example a declaration of bankruptcy by someone incapable of repaying a debt.

One of Green's most significant claims is that the state is not entitled to punish wickedness or depravity of character. The only pertinent factor in the decision to punish is the importance of the right which was violated and the degree of punishment is determined by the extent to which a society requires sanctions to protect the general system of rights. In his analysis of family rights, Green supplies an answer as to why poor character is not grounds for punishment when he asks why adultery is not made a criminal offence. If adultery were made a criminal offence, then the state would be compelled to institute proceedings and not leave it to the discretion of individuals. Since the vows and ceremony of marriage are considered to be contractual, adultery is analogous to other breaches of contract in which case the state "...leaves it to the individual injured to set the laws in motion...."[39] There is a prudential consideration as well here in that the state really cannot form the motive or intention to make someone do what he or she opposes. As Green explains, "[m]oral duties do not admit of being so enforced. The question sometimes put, whether moral duties should be enforced by law, is really an unmeaning one, for they simply cannot be enforced. They are duties to act, it is true, and an act can be enforced: but duties to act from certain dispositions and with certain motives...cannot be enforced."[40] The state may compel an individual to act, but there is a strong practical consideration we can easily grant that the state can only affect external conduct and not inner motives.

Retribution is justifiable only when the penalty or sanction is necessary to preserve a social life based upon a system of rights. Green notes that if the justification of punishment were predicated upon either or both of the "character" of the individual or retribution involving the infliction of pain "[t]here would be an end to all general rules of punishment."[41] The justice of punishment depends not only upon whether the punishment is necessary for the existence of the state (in this case, another association or grouping or even individual attempting to usurp its sovereignty, its final authority) but whether the state is fulfilling its objective as a sustainer of true and genuine rights. If punishment is to be just in the sense that due consideration is applied to the system of rights, then society and the state must consider rights in prospective rather than retrospective terms. The state in Green's account has three objectives in dealing with either criminals or imminent threats, and a limiting principle of punishment. First, the state has a retributive role to play in punishing infractions of right, and the presumption that retribution is equivalent to punishment simply is a linguistic confusion. Second, the state has a preventative role to play in the maintenance of a system of rights. Part of the state's purpose is to create conditions wherein rights and liberties can be given full expression. Third, the state has a reformative responsibility to those who violate the laws. As for the limiting principle, we may say that if a state has created conditions wherein support for rights and laws is lacking, then the state's right to punish is abridged.

The one consistent claim in Green's analysis of the rights to war and punishment against the individual's right to life is that the individual right to life is a right that cannot be transferred or assigned to other agents. The right to life is in a sense a fairly radical right--even for liberals--insofar as the right is one which can never be overridden by sovereign decree. The right to life implies that an individual is under no obligation to submit willingly to actions and policies which undermine an individual's claims to basic personal security against the application of force. It is the most elemental right that forms the basis for other rights in that it is meant to provide a foundation of sorts for derivative individual rights. The right to life essentially is an injunction against any action by others that impinge upon the security of the individual, principally one would think against cruel and arbitrary acts. In fact, the inclination here is even to suggest that there is no competing social or political claim that can ever override the individual's right to life, but whether we are entitled to interpret the right to life in this manner remains an open issue. Green certainly appears to disapprove of capital punishment, for example, when he writes that such a policy depends "...not only on its necessity as an incident in defence of a certain state, but on the question whether [a] state itself is fulfilling its function as a sustainer of true rights. For the penalty of death for murder both justifications may be urged. It cannot be defended on any other ground, but it **may be doubted whether the presumption of permanent incapacity for rights is one which in our ignorance we can ever be entitled to make."**[42] The most consistent way to interpret Green here is to say that while the state may legitimately enact policies which could violate the right to life, the individual is under no obligation to obey the command.

Another way to interpret the individual right to life is to read it as a right explanatory in nature. For Green, adherence and allegiance to a general system of laws and rights requires that human life be treated as sacred, and especially so for those who are most vulnerable. Green provides two explanations as to why there is priority attached to the individual's right to life. The importance of the right to life is explained on either or both of the following grounds: (1) we do not consider the lives of those who are more vulnerable "...to be limited to this earth..." and thus ascribe to them a right to live on the basis of a social capacity "...which under other conditions may become what it is not here...."; or (2) that the distinction "...between complete and incomplete, social incapacity is so indefinite that we cannot in any case so safely assume it to be such as to extinguish the right to live."[43] Green explains that the practice of slavery, for example, is condemned because it is simply wrong for one human being to be at the whim and will of another. As he adds, "[i]t is not the less a wrong that a man should be a slave because he has sold himself into slavery."[44] The right to life accounts for the assumption in liberal thinking that individual interests have axiomatic priority over the needs and requirements of society or the political community.

The right to life is the basic right of all individuals. It does require prerequisite conditions such as minimal rationality and recognition on the part of others but the test for such rationality and recognition is that of self-consciousness. That is to say, the right belongs to all human beings capable of recognizing themselves as **selves**. The requirement of rationality and recognition here is so wide it brings within its realm all human beings but is restrictive enough to end with human beings. Several key ideas concerning Green's right to life ought to be clear. First, given that the right to life is not transferable to other agents, it is not a right that requires recognition by the sovereign. The criticism levelled at Green that social recognition is a necessary condition for the exercise of rights does not apply to the right to life. That is, the legitimacy of the right to life does not need the support of the sovereign. That sovereign recognition is not a necessary condition of the legitimacy of the right to life is evident from the limitations Green outlines to the exercise of sovereign power, principally that states may neither with impunity nor without limit enact policies that undermine the right to life. Second, the state's right to punish is only justified when retribution is necessary for the maintenance of a general system of rights. However much individuals may be offended by the actions and conduct of others, the only pertinent consideration for sanctions is the effect breaches of right have on a general system of rights. Third, retributive justice requires that breaches of right be assessed in prospective and not retrospective terms. This last point illuminates the notion that individual rights in Green's theory derive their worth from the manner in which they contribute to the system of established rights. That rights are to be secured by their contributions to a system of rights, or according to the common good criterion, will now be examined more diligently.

5.4. The Right to Free Life (II): The Right to Negative Liberty

The right to a free life is different from the basic right to life even though in places Green himself treats them as equivalent. For example, he writes that "[i]f there are such things as rights at all...there must be a right to life and liberty, or, to put it more properly, to free life. No distinction can be made between the right to life and the right to liberty, for there can be no right to mere life--no right to life on the part of a being that has not also the right to direct the life according to motions of its own will....This capacity [to will] is the **foundation** of the right, or the right **potentially**, which becomes **actual** through recognition of the capacity by a society, and through the power which the society in consequence secures to the individual of acting according to the capacity."[45] It is a lapse on Green's part to assert that there is no distinction between the right to life and the right to liberty. The right to free life imports a liberty component and thus in addition to containing a right to life **includes** rights to liberty or freedom. It is a right comprised of three distinct yet related elements: a right to life and a right to two kinds of liberty, negative and positive. The reason that we should draw a distinction, where Green sometimes did not, between the right to life and then between the two rights to liberty is because the implications of the two conceptions of liberty are different. Not only do the rights to liberty or freedom require a different kind of justification than the more elementary right to life, but the two kinds of liberty are also justified in a different manner.

Green's failure consistently to distinguish the three operative rights in the compound right to free life obscures the normative role he assigned to the right to life because, as we determined, the requirement of social recognition should not apply to the right to life. Once again, this precondition of social recognition is not consistent with his usage of negative liberty because in the end he again would not want the legitimacy of a negative liberty-claim to be dependent upon recognition. At several places within the Lectures Green notes that some kind of distinction should be drawn between negative and positive conceptions of rights as liberties. He writes that "[o]nly through the possession of rights can the power of the individual freely to make a common good his own have reality given to it. Rights are what may be called the **negative** realisation of this power. That is, they realise in it the sense of providing for its free exercise of securing the treatment of one man by another as equally free with himself, but they do not realise it **positively**, because their possession does not imply that in any active way the individual makes a common good his own. The possession of them, however, is the condition of this **positive** realisation of the moral capacity, and they ought to be possessed because this end...[ought] to be attained."[46] Elsewhere Green states that "...the idea of the individual's right to free life has been strongly laid hold of in Christendom in what may be called an abstract or negative way, but little notice has been taken of what it involves."[47] A reader is sometimes at the mercy of Green's terminology and definitions when he fails to appreciate fully the implications that the two conceptions of liberty have for his own general theory of individual rights based on the compound right to free life.

In order to understand more fully the right to free life we must develop the implications negative and positive liberty have for his theory of individual rights, beginning with negative liberty or freedom. In his analysis of liberal legislation and contract Green comments on various policy measures of his day affecting industry and education that "...all in one direction or another, limit a man's power of doing what he will with what he considers his own."[48] Green argues that, as an elementary matter, the state's involvement in society demonstrates such a departure from the notion of freedom of contract that the contract itself is no longer a meaningful explanatory political concept. Green's argument thus moves beyond the point where the mere involvement of the state in society is assessed as either morally right or wrong. He instead argues that we need to reconsider the principles upon which the social contract is based so that "[w]e shall then be on surer ground in approaching those more difficult [principles] of legislation...and of which settlement is sure to be resisted in the name of individual liberty."[49] The concept associated with the contract is "freedom," and as Green makes clear freedom does not mean simply the absence of coercion or compulsion as the liberals of his day interpreted the contract tradition.

Green disapproved of the tendency by liberals to phrase their beliefs in negative terms and hence he chose to describe the ideal of freedom they held as "negative liberty." He wished instead to convince liberals that certain positive functions ought to be fulfilled by the state. With a tone of exasperation he notes that "[i]f it were ever reasonable to wish that the usage of words had been other than it has been..., one might be inclined to wish that the term 'freedom' had been confined to the juristic sense of the power to 'do what one wills': for the extension of the meaning seems to have caused much controversy and confusion."[51] Green objects to the idea that freedom is a power to do what one wills or prefers. As he explains, while "...there can be no freedom among men who act not willingly but under compulsion, the mere enabling a man to do as he likes, is in itself no contribution to true freedom."[52] Freedom is instead the "...true end of all our efforts as citizens...," and when "...we speak of freedom as something to be so highly prized we mean a...power or capacity of doing or enjoying something worth doing, and that, too, something that we do or enjoy in common with others."[53] Freedom expresses a political and social relation between individuals and thus is a particular kind of self-determination.[54] Liberty is a power to be sure, but a power which each individual exercises through the assistance or security granted by other individuals. Freedom is valuable as a means to an end; or stated alternatively, the importance we attach to freedom derives not from the idea of freedom in the abstract but from the significance of the object of our desires and action. This potentially shared or common end of our desires and actions Green calls "positive freedom" which is "...the liberation of the powers of all men equally for contributions to the common good."[55]

The most influential interpretation of Green's conception of "positive liberty" is that placed forth by Berlin in his "Two Concepts Of Liberty." He argues that positive liberty is about self-realisation, and that such a conception of liberty lies at the heart of all political theories of self-realisation. Positive liberty, Berlin maintains, is "....the possession by all, and not merely some, of the fully qualified members of a society of a share in the public power which is entitled to interfere with every aspect of every citizen's life."[56] This interpretation of positive liberty has been so influential that it is easy to overlook what Green is really stating. If we examine what is being said about freedom or liberty in the previous paragraph, clearly two distinct claims concerning freedom are being made. Green notes that freedom is (1) a power or capacity of doing or enjoying something worth doing and (2) that freedom is a power or capacity of doing or enjoying something that we do in **common with others**. There are many things I consider to be worth doing because in their own way they are enjoyable and perhaps even possess some intrinsic worth. Occasionally the desire overwhelms me to watch so-called "spaghetti westerns," and the freedom and ability to view such movies is important to me. But I would hardly justify the freedom to view these movies on the grounds that I can or should share the experience with others, for not everyone considers such movies to be emotionally appealing or intellectually gratifying or spiritually ennobling, and more importantly I usually do not care what other people think. This is a negative-liberty claim: I am staking out strong grounds to engage in an activity or form of enjoyment of my choosing which is independent of other's rights to the extent that the exercise of the right does not require in any meaningful way the harmonization of my interests and desires with other's. Individual idiosyncrasies have their worth too, and it is odd that Green sometimes speaks as though the individual's power and capacity to do or enjoy something only makes sense in light of common purposes or objects.

At times Green draws such a critical portrait of negative rights that a reader can easily conclude that he considered such rights to be either anachronistic or illegitimate. In the Prolegomena he is critical of negative rights on the grounds "...they are admitted to membership of civil society, but the good things to which the pursuits of society are in fact diverted turn out to be no good."[57] There he argues that a civil society is founded on the idea of a common good, but that negative rights disadvantage the less-favoured members of a society because such rights justify the acquisition of

"...objects which admit of being competed for. They are of such a kind that they cannot be equally attained by all. The success of some in obtaining them is incompatible with the success of others."[58] Notwithstanding the highly-critical tone of his considerations on negative liberty, at no point does Green deny the force or legitimacy of the conception.[59] In fact, the conception of negative liberty is at work in his elementary right to life. Green in various places informs us that the will is a power to realise objectives formed upon a lifeplan. So the will is a power to act upon an objective or to act purposively. Such a power, Green argues, ought to be recognized in all with certain provisos attached to the realisation of will or the exercise of power. The most important proviso is that an individual cannot exercise his or her will if it interferes with the like power of another, for the exercise of will is a necessary condition of attaining a free morality. To possess a right is to belong to a society in which each individual recognizes other individuals as causes of actions, and the free exercise of these powers of action depend upon others respecting and reciprocating like powers. Such a right can be understood to be an individual right in the sense that its bearer is a self-determining agent conscious of itself as one among other like agents. Green argues that there is no tension or opposition between possessing a right on these grounds with the claim that individuals possess rights derived from society.[60]

Green here is fusing two different claims. The argument that one possesses a right as a result of being a self-conscious agent with the power to will (the right to life) and that individual rights are the result of the recognition by individuals of powers that ought to be respected and reciprocated (the rights to liberty) are distinct claims, and is a move that needs more attention. What Green appears to be saying is that the bases for a liberty-claim can be considered (1) to arise out of a natural faculty or capacity on the part of individuals, or it could be (2) a generally-recognized claim which has become a power granted to individuals. Ideally Green should have devoted more attention to these potentially competing right bases, for he generally does not waver on the point that it is only by recognition of a claim or claims as having in principle common objects that makes reciprocity between individuals possible. Moreover, "...a claim founded on such a common consciousness is already a claim conceded; already a claim to which reality is given by social recognition, and thus implicitly a right."[61] Such a claim presupposes a capability of living in a community with other human beings, but it is difficult to understand here how the capacity for consciousness can offer much guidance for competing rights-claims.

When Green argues that individuals have certain legitimate liberty-claims because they are members of a society, he is utilizing a very specific meaning of the general right to free life. For Green, to be consistent, would not want to argue that social recognition is a necessary condition of the right to life or the right to negative liberty. The right to life is foundational to his theory of individual rights and is based exclusively upon discrete or individuated self-conscious and willing agents. While it would be **ideal** to have other individuals recognize my capacity to self-realize and self-actualize, it is not a necessary condition of the legitimacy of the right to life that they do so. When Green places forth the proviso that an individual cannot exercise will if it interferes with the like power of another, for the exercise of will is a necessary condition of attaining a free morality, it sounds suspiciously like the contractarian conception of liberty.[62] A right derives from an ideal of equality amongst members of a society, the ideal itself derived from understanding the importance to a general system of laws and rights of recognizing and honouring rights-claims. There is however a more troublesome issue about social recognition being a condition of the exercise of individual rights.

What is to be said when a liberty-claim is not socially recognized? It was previously determined that in the event of a direct conflict between a law of the state and the individual's basic right to a free life, Green argues that the state can no longer legitimately claim that an individual is under an obligation to obey the law, policy, or legislation.

In this instance, the "...obligation to observe the law, because it is the law, does not exist for him."[63] Liberal theorists in general have been tolerant and humane on this point in that allowances have been made for conscientious disobedience of particular laws even though a liberal can never at any point allow or encourage a wide-spread disavowal of the system of laws and rights. It would seem that there is only one way to reconcile Green's claim that individual rights require recognition with his defence of civil disobedience, and that is by removing the rights to negative liberty from the general requirement of social recognition.

In order to see why negative liberty must be removed from the requirement of recognition, we must return to Green's justifications of civil disobedience and what these justifications presume. First, it is recalled, he argues that if there are no legal means to repeal a law then there is justification for disobedience. Green here likely had in mind some potentially legitimate albeit unacknowledged right to representation or even participation in the affairs of state, although it is difficult to understand how one could derive such a right to representation or participation from a negative liberty-claim. Second, if sovereignty is in dispute and as a result the legal authority of the sovereign is in question, there may be justification to disobey the commands of the putative sovereign. Since disputed sovereignty, by definition, is a condition wherein the system of laws and rights and hence obligations has collapsed, it is somewhat peculiar to discuss conditions of obedience or disobedience in this instance at all. The third and fourth conditions raise some interesting questions. If the system of law and government is infected "...by private interests hostile to the public..." then Green maintains that a common interest in maintaining the system of law and rights is absent and accordingly one may engage in disobedience. And finally, disobedience is justifiable if the authority from which objectionable laws proceed "...is so easily separable from that on which the general maintenance of social order and the fabric of settled rights depends, that it can be resisted without serious detriment to this order and fabric."[64]

It is peculiar that of all the conditions that legitimate disobedience, Green mentions neither his basic right to life nor the right to negative liberty. It is possible that he considered it self-evident that any acts or policies which undermine these rights release an individual from any obligations, legal or moral, to the sovereign. Speculation aside, whatever the reason for these omissions, it is becoming clearer that Green never intended for the rights to life and to negative liberty to require recognition by either the sovereign or society. These rights are primarily injunctions against the acts of others or the state which amount to an encroachment on one's basic claim to personal security. Together the right to life and the right to negative liberty do not generate obligations beyond the elementary recognition (or presumption) that personal security is a fundamental and reasonable claim and that others are obliged to recognize the claim and act in a manner consistent with such recognition. At this point though we have established the grounds for Green's argument of a right to free life anterior to other claims made by other individuals and the state. Since the state is both a sustainer (because institutionally assigned) and harmoniser (because its institutionally assigned role of upholding a system of rights legitimates its sovereignty) of social relations, the individual cannot have rights, save the right to life, against the state. The state's law must be absolute.

For Green, though, the general principle that a citizen must never act otherwise than as a citizen does not carry with it an obligation under all conditions to conform to the law of the state, since most obviously laws may be inconsistent with the true end of the state as a sustainer and harmoniser of social relations. As Green explains, an individual "...has rights which the state neither gives, nor can take away, and they amount to or constitute a right to freedom...."[65] Yet the discussion of the conditions for disobedience raise some interesting claims that need to be examined more fully. The rights that are encroached upon in Green's four conditions for disobedience and by their encroachment release an individual from an obligation to the established system of laws and rights surely are neither the right to life nor the right to negative liberty. Together these two rights cannot be said to generate liberty-claims understood as entitlements. These really are negative claims or injunctions against certain kinds of acts by other individuals or the state, particularly acts that undermine the individual's right to life. Green's defence of disobedience indicates that he had another element of the right to free life in mind that is in some manner related to yet distinct from the basic right to life and right to negative liberty. This right would appear to be the right to positive liberty, the centrepiece of his evocation of a good-based approach to rights to which we now turn.

5.5. The Right to Free Life (III): The Right to Positive Liberty

Green often treats the general right to free life as a right in need of social recognition, and some have interpreted this as meaning that the legitimacy of the right depends upon recognition by the sovereign. For example, a citizen cannot have a "...right against the state, in the sense of a right to act otherwise than as a member of the state. For a citizen this is as much a contradiction as the right of a man to act otherwise than as a member of some society...."[66] Or elsewhere, "[a] right is a power of which the exercise by the individual or by some body of men is recognized by a society, either as itself directly essential to a common good or as conferred by an authority of which the maintenance is recognized as so essential."[67] We have determined, however, that the force of the criticism that either social or sovereign recognition is a necessary condition of the legitimacy of a liberty-claim derives from a failure to distinguish the various kinds of liberty-claims within the compound right to free life, especially the basic right to life which in the end amounts to a negative liberty-claim.

If reassembling the compound right to free life has to this point both clarified and systematised Green's general theory of individual rights, then there yet remains ambiguity over what positive liberty implies. It was not confusion on Green's part that he utilized the notion of a common good and often spoke of it as a necessary element of a legitimate rights-claim. His strongest statement to that effect is that "[t]here can be no right without a consciousness of common interest on the part of members of a society."[68] To sustain this claim he had to argue that the explication of a common good or common interest is a necessary part of a liberal theory of individual rights. Such a good is based on the "...conception on the part of everyone who concedes the right to others and to whom it is conceded, of an identity of good for himself and others."[69] Green argues that it is only as members of a society that makes it possible to speak of rights, and moreover that the "...right to free life rests on the common will of the society, in the sense that each member of the society within which the right subsists in seeking to satisfy himself contributes to satisfy the others, and that each is aware that the other does so; whence there results a common interest in the free play of the powers of all."[70] In the absence of a better term for this third category of rights, we will call them as Green does "political or civil rights."

It was determined in the previous section that Green invoked two kinds of liberty-claims. The first is that freedom is a power or capacity of doing something worth doing, and this kind of liberty-claim is consistent with his conception of negative liberty. The second is that liberty is a power or capacity of doing or enjoying something that we do in common with others. The latter indicates that there is a class of activities that require a joining with or perhaps even a necessary link between my desires and those of others. I suggested that I have personal interests, needs, and desires and that the exercise of negative liberty does not presuppose an identity of interests short of minimal recognition of my legitimate claim to have a personal or private domain to which I can occasionally retreat. Yet there are clearly activities that do not make any sense in the absence of shared interests. I cannot play baseball, share both painful and joyous moments with friends, or have a family by myself. And it is assuredly the case that I cannot by myself be a member of either an association or political society. The distinction then between personal interests and public or social interests is one of importance for Green's conception of liberty, for it indicates that he has in mind a category of rights which are not based upon individuated claims but are necessarily shared rights.

The legitimacy of a positive liberty-claim lies in its conforming at least in principle to the operative political principles regulative of a liberal political order. It is unlikely that a given regime can ensure its endurance if it often or even occasionally fails to place the security of its citizenry first. The claim thus to have reasonable assurance of security against the wanton, reckless, and malicious acts of others is immutable and not subject to the flux of majority rule or other devices to register public passions. There is though an antinomy concerning the role and place of the state understood as an institution for the maintenance of rights. Since the state's purpose is to maintain a general system of laws and rights, the state cannot be the impartial arbiter of disputes resulting from the violation of rights. Any encroachment upon the security of the citizenry either by other states or by individuals within the state commissions the state to act in defence of the right to free life. Moreover, Green notes that it is "...not the business of the state to protect one order of rights specially, but all rights equally."[71] Somehow then there must be some principle(s) by which we can discriminate between the existence of sovereignty embodied in a state upholding the right to free life over other perhaps legitimate political claims and of the imperative to protect all rights equally and not as Green notes "one order of rights." Basically here what we need here is some direction from Green's account concerning the interpretation of positive rights and the conditions that must be met in order for these rights to be considered worthy of protection.

Green insists that we need to examine the nature of rights which arise out of social relations or from social life. Obviously the right to life is not a right which arises out of social relations. It is not a public right in the sense that the right depends upon a society of people, and in particular a society of people that have assumed the form of a state. The right to life depends only contingently upon the sovereign as embodied in the modern institutional variant called the nation-state. It is at least conceivable that in the future there could develop other forms of political and social organization beyond the nation-state, and we certainly have historical examples of other forms of political association such as the ancient Greek **polis** and medieval principalities with similar objectives. Green's point is that we have examples of other forms of regime whose objective was to maintain security, but what distinguishes liberal regimes from other forms is the adherence to a general system of laws and rights. The question is, What kind of positive rights are constitutive of a liberal political order?

In several places Green indicates that he was aware of the need to provide an account of positive rights. For example, he notes that political or civil rights (or what we are calling here positive rights) differ from natural rights to the extent that within a political community, and not in some pre-political or natural state, there arise powers recognized by individuals "...in their intercourse with each other as powers that should be exercised, or of which the possible exercise should be secured."[72] Green notes that such powers transformed into rights (what I will call "emergent" or "prospective" rights) arise in five ways: (1) when a sub-community within an established state begins to assert formal political recognition; (2) when a territory has been either conquered or voluntarily submitted itself to an established state; (3) when the interaction between individuals leads to complications unforeseen, such as the developing derivative rights to property; (4) when administrating the state gives rise to new rights, to the codification of powers necessary to administer the state; (5) when day-to-day life between individuals legitimates state action in matters such as building regulations, rent control, and sanitation, essentially public safety.[73]

The issue at hand is what positive claims can be generated from the basic right to free life. Part of Green's answer lies in the capacity on the part of agents to partake in social life and to formulate conceptions of well-being and life-plans. Such a right to free life belongs to all humans in virtue of their natures and qualities which render them capable of human fellowship and association. The right then is based upon a particular capacity for what Green calls a free contribution to social good. A right is a power secured to an individual by the community on the condition that its exercise contributes to the good of the community. The exercise of this power cannot contribute in this fashion unless the individual is at least affected by the conception of a good as common to him- or herself and others. It is not the case though for Green that each and every exercise of a right be motivated exclusively by a concern for others. He argues instead that the presumption involved is that an individual will "...of his own motion have respect to the common good, which entitles him to rights at the hands of the community."[74] Someone who could only be induced by fear of punishment or death to conform to the rules and laws of society is someone who is not the proper subject of rights. As Green continues, "[i]n such a case the fear of punishment may be needed to neutralise anti-social impulses under circumstances of special temptation, but by itself could never be a sufficiently uniform motive to qualify a man, in the absence of more spontaneously social feelings, for the life of a free citizen."[75]

The question that arises here is, How far has Green removed his positive from his negative conception of liberty? Green certainly makes it clear that the error of many of his liberal predecessors was to ignore what is significant in the fact that individuals act egoistically and on occasion compel the state to use force: i.e., that the habit of obeying the laws implies on the part of individuals an understanding that there is such a thing as a common objective. Yet Green steadfastly remains critical of the exercise of state power since it interferes with what he calls the "spontaneous action" on behalf of individuals necessary for the exercise of rights. The exercise of state power indicates that individuals have, in one manner or another, failed to uphold their obligations. Green nonetheless argues that liberal institutions--including a system of rights--must promote the common good, and he addresses how it may be conceived and promoted. He constantly reminds his readers that it is not supreme coercive power "...simply as such, but supreme coercive power, exercised in a certain way and for certain ends, that makes a state; viz. exercised according to law, written or customary, and for the maintenance of rights."[76] The state in Green's theory is an association with clear objectives. Sovereign authority, acting through the state, derives from the objective of peace and security for its members. The state, then, acting from its sovereign authority, cannot act as it so chooses but instead must justify its decisions and policies in light of the main objective of securing a peaceable life for its citizenry. As a result of this authority to act to preserve peace and security, the state has undertaken an obligation to ensure that the exercise of the basic right to free life can be realised by all.

Sovereignty is a power, but as Green notes "[a] power that altered laws otherwise than according to law, according to a constitution, written or unwritten, would be incompatible with the existence of a state, which is a body of persons, recognized by each other as having rights, and possessing certain institutions for the maintenance of those rights."[77] What characterizes this power is the wide-ranging, almost limitless, uses with which it may be wielded. Green recognizes this problem when he writes that the "...power of the ultimate imponent of law cannot be derived from or limited by law."[78] In one way he appears to be suggesting that the limitation to sovereignty is a matter of trust and confidence in representatives based upon the mutual good-will he discerned in most men and women.[79] More specifically, adherence to a general system of law and rights indicates that there must be in place a constitutional framework that embodies the values and objectives of a liberal political society. A liberal system of law and rights must recognize private individual (or political) and institutional (or civil) rights. Institutionally this system would empower a representative body with the task of creating laws or amending existing ones, designed to represent the citizenry as broadly as is possible without undermining its mandate both to represent the public and to control excesses of popular passions; it would create and support an independent judiciary dedicated to the enforcement of political and civil rights; and finally such a system would entrust an executive to oversee the operations of the judiciary and legislature and grant authority by trust to act for the state in expedient times. Perhaps most important of all, a distinction would have to be drawn between the public and private spheres, the latter of which is to be as wide-ranging as possible in order to challenge public encroachments.

It is apparent that Green, like his liberal predecessors, upheld individual rights in order primarily to prevent passionate and arbitrary decision-making--that is, acts and policies not congruent with liberal principles--from infecting policy-formation and legislation, and this concern with limiting arbitrariness in governing has an institutional element. Adherence to a system of law and rights is supposed to ensure that both citizens and representatives do not engage in actions that undermine the principles in support of individual rights. The liberal tradition is one tied to democratic sentiment and machinery which are supposed to act as restraints on the exercise of political power. At a general level this system is to operate with a degree of popular control, which means that there must be a degree of citizen participation in the operation of the government. In addition there have to be leaders in order for there to be responsible decision making. Most important in Green's theory is that the system of laws and rights must contribute towards the maintenance and operation of the political system by enlisting the support of its citizens. Accordingly, Green's theory suggests that the system of laws and rights must to a degree correspond to the interests and opinions of the public while holding political leaders and individuals publicly accountable for their decisions and actions. Green's emphasis upon life-plans over immediate desires also suggests that individuals must insist that political leaders pursue more long-term national interests without neglecting short-term public desires. Finally, the emphasis Green placed on obedience and obligation to the principles of liberal law and rights implies that peaceful change of governments and leaders occurs without violence either to individuals or the laws and that means be found which alleviate dissatisfaction with the application of liberal principles.

It would seem that there is a modest importance to Green's conception of positive rights. On the one hand, there is a promising element in the idea that there are certain kinds of rights that are political (or perhaps social) and not individual. A right to representation or perhaps even a stronger claim such as a right to political participation seemingly would be the kinds of political rights that Green has in mind. In addition, we can say that adherence to a system of laws and rights will likely expand the amount and kind of rights that individuals may legitimately claim. This indicates that there are emergent or prospective rights in Green's theory which are of a different order than the negative rights we had previously outlined. Most importantly, the positive rights in Green's account captured under the general heading of political or civil rights do require social recognition, largely because they need either codification in some manner or general acceptance derived from the customs or traditions of a liberal society. The evocation of a common good as a precondition for the legitimacy of a liberty-claim apparently stands as a reminder to individuals to weigh their claims judiciously.

5.6. The Role of Virtue in Green's Theory of Rights

One of the most striking ideas Green proposed to liberals was his theory of the common good, and it is even more notable given the central place and supreme value he assigned to the conception. Yet the common good does not presuppose an identity or convergence of interests. The state as an institution representing a common purpose or objective need not insist upon absolute conformity, only faithful and intelligent allegiance to established, public principles. Common purposes and objectives however can overcome the separation of interests. Green argued that the proper view of obedience in liberal thinking is one that entails considering whether governments do or do not promote a common good, a good common to all those subject to the commands of the sovereign. He maintained that it is possible to be free under a just law if one voluntarily accepts that the law is right. In the absence of voluntary acceptance of the justice of laws and rights the problem of legitimate government and of political obligation is insoluble. The ideal then in Green's political philosophy is neither the greatest happiness for the greatest number nor adherence to an original social contract but a form of human life, the good life predicated on a system of immutable rights such as the rights to life and negative liberty and emergent rights such as political or civil rights. Green argues that the common good has a practical component when he writes: "Does this or that law, this or that usage of action--directly or indirectly, positively or as a preventative of the opposite--contribute to the better-being of society, as measured by the more general establishment of conditions favourable to the attainment of the proposed excellences and virtues, by the more general attainment of excellences in some degree, or by their attainment on the part of some persons in higher degree without detraction from the opportunities of others?"[80]

The virtue of Green's theory of rights is the answer it can supply to the liberal question of what should and should not be part of the political. A liberty-claim must pass a rigorous series of criteria composite of the common good criterion: it must be a claim that could be made on the behalf of any and every human being; it must be a claim on human society as a whole; and finally there must be a possible common good to be discerned of human society as a whole. These criteria also apply for assessing legislation or social policy in that liberal legislation (1) must be good for all people, (2) must ensure that the gains for some do not occur at the expense of others, and (3) that any losses and gains that do occur are to be estimated on the same principle for each individual in society. These are Green's external tests from which we are capable of distinguishing laws consistent with a liberal common good from those that are not. In effect, the criteria used to justify social legislation mirror those that justify liberty-claims. Green's argument for rights requires that particular, derivative rights be in accord with the general constraint that allowances of liberty are not, as a rule and on the whole, impediments to social good.

Clearly a view such as Green's presupposes a fairly virtuous citizenry. Political and civic associations require a high level of trust between citizens and between citizens and their appointed representatives in that they act in a consistent and principled manner, and the most important exercise for the liberal regime is to inculcate the prerequisites for individual self-government. The common good criterion acts as a restraint on pride and envy by encouraging tolerance and civility, and further tries to limit extreme independence by cultivating virtues as preconditions for the exercise of rights. A mutual respect for privacy and rights and restraint by individuals, parties, sects, and classes are habits in large measure necessary for a viable liberal politics. It is also important that the liberal regime employ the force of the community against those who fail to respect the lines drawn between particular interests and those required to retain public order.

Liberals like Green have always placed great emphasis on education. The reason for this emphasis is evident: by education we instill and propagate sentiments in favour of liberal ways of life. A liberal education can create a sentiment in favour of sociality in order that the state is not forced routinely to sanction its members when they fail to comply with its general system of laws and rights. A liberal education is to ensure that individuals can imagine themselves in the possession of different needs, interests, and desires, and that for each particular need, interest, or desire an individual can decide at least occasionally to forgo self-satisfaction. For neither the state nor the educator need supply expertise in the art (or recently science) of self-interest. Liberalism is an account of the manner in which diverse individuals with competing interests can coexist within a single legal community, and common projects such as education should convince students that social and political problems are better resolved by mediation and persuasion than by force. The theory and practice of liberal constitutionalism are closely linked. Liberal principles are and have been frequently invoked--although less understood--to justify political decisions or to reform actual political practices, and the honing of our understanding of the moral requirements and ideals to which liberals aspire is academic to be sure, but not merely of academic importance.

A liberal society in Green's theory is one that neither encourages nor emphasizes a diversity of opinions but harmonizes differences, and the political process is one in which consensus and not division is the objective. Liberal theory undertakes two tasks in its attempt to balance individual needs and interests with those of the wider society. The rights-inspired limitations to the exercise of political power by political representatives and the democratic sentiment behind the ideal system of law and rights stand together in an uneasy relationship. A liberal must with one hand hold democratic ideals dearly while with the other restrain the menace that majoritarianism poses to individual rights. The boundaries of the political, of the needs of the individual and of society, of the private and the public, are constantly shifting. Here Green's theory of individual rights makes it most significant contribution to the body of liberal thinking. Individual rights cannot be abstracted from what matters to individuals within a social context, and they cannot be isolated from the needs and requirements of the larger political community. For Green, the evocation of individual rights-claims should only be made when an interest is basic to a dignified life within a social context, and moreover is one that most people could understand as constitutive of a broader interest that ought to be widely recognized.

Endnotes

1. Cf. "The Right Of The State In Regard To Property" and "The Right Of The State In Regard To The Family" in Green, Lectures, §211-246.

2. Richter argues that it "...is impossible to reconcile the assertion that rights as such are only socially recognized, with the contrary view that there exist rights which ought to be granted, whether they are not they are in fact recognized." Cf. his The Politics Of Conscience, p.264. Peter P. Nicholson, however, suggests Green's account does not suffer from this defect. Cf. "Green, Rights, and Property," in his The Political Philosophy of the British Idealists (Cambridge: Cambridge University Press, 1990).

3. Green, Lectures, §137.

4. For an analysis of the conceptual problems of neutrality as a political concept, cf. Peter De Marneffe, "Liberalism, Liberty, and Neutrality," Philosophy & Public Affairs Vol.19, No.3 (Summer 1990), pp.253-274. Will Kymlicka explains that the problem of neutrality "...is not that liberal neutrality fails to achieve its aim of genuine neutrality...but, rather, that neutrality undermines the very conditions in which it is a worthwhile aim." Cf. his "Liberal Individualism And Liberal Neutrality," Ethics Vol.99 (1989), p.888.

5. As Patrick Neal explains, "[t]he politics of neutrality is conducted within a language which is, like its competitors, non-neutral; those who do not speak it as a matter of course in liberal societies are provided, sometimes against their wishes, with a translator. In the last analysis, that translator is the state." Cf. his "A Liberal Theory Of The Good?" Canadian Journal Of Philosophy Vol.17, No.3 (September 1987), p.579.

6. Andrew Altman applied "viewpoint-neutrality" to the regulation of hate speech--specifically racism, sexism, and homophobia--and arrived at a predictable result. As Altman notes, "[t]he liberal who favors hate-speech regulations, no matter how narrowly drawn, must...be prepared to carve out an exception to the principle of viewpoint-neutrality." Cf. his "Liberalism And Campus Hate Speech: A Philosophical Examination," Ethics Vol.10, No.2 (January 1993), p.306. Indeed, any theorist interested in preserving neutrality as a political concept will first have to resolve the paradox posed by Brian Barry. As he explains, "[w]hat we are seeking is an ethical justification of the principle of neutrality. Does one exist?" Cf. his "How NOT to Defend Liberal Institutions," British Journal of Political Science Vol.20 (January 1990),

p.7.

7. Green, Lectures, §98.

8. Ibid., §103.

9. Ibid., §31.

10. Ibid., §208.

11. Ibid., §136.

12. Ibid., §217.

13. Ibid., §235-236.

14. Ibid., §142.

15. Ibid., §141.

16. Ibid., §98.

17. Ibid., §145.

18. Ibid. Elsewhere Green maintains that most individuals possess what he calls "practical reason," a capacity of conceiving the perfection of an individual nature as an object to be attained by action. Cf. Ibid., §6.

19. Ibid., §101.

20. Ibid.

21. Ibid., §38.

22. Ibid., §139.

23. Ibid., §145.

24. Ibid., §159.

25. Ibid., §198.

26. Ibid., §159.

27. Ibid., §156.

28. Ibid., §158.

29. Green writes that

> [o]ur conclusion...is that the destruction of life

> in war (to say nothing of other evils incidental to it with which we are not here concerned) is **always** wrong-doing, with whomsoever the guilt of the wrong-doing may lie; that only those parties to a war are exempt from a share in the guilt who can truly plead that to them war is the only means of maintaining the social conditions of the moral development of man, and that there have been very few cases in which this plea could truly be made.

Cf. Ibid., §163. The emphasis is mine.

30. Ibid.

31. Ibid., §166.

32. The clearest principle of collective self-defence in Green's account occurs when he writes that "...on the same principle upon which a state is violating natural rights in maintaining slavery, it does the same in using force, except under necessity of self-defence, against members of another community." Elsewhere, Green states that "...the individual members of a nation have no...apparent interest in their government's dealing unfairly with another nation as one individual may have in getting the advantage of another." Cf. Ibid., §140 and §175.

33. Ibid., §178. The emphasis is original.

34. Ibid., §183.

35. Green explains how we should understand "public passion" in the context of a desire to see a wrong rectified. He states that "[w]hat is meant is that there is a violation of a system of rights which the nation has, no doubt, an interest in maintaining, but a purely social interest, quite different from the egoistic interest of the individual of which the desire for vengeance is a form." Cf. Ibid., §182.

36. Ibid.

37. Ibid., §185.

38. Ibid., §189.

39. Ibid., §243.

40. Ibid., §10.

41. Ibid., §192.

42. Ibid., §205. The emphasis is mine.

43. Ibid., §154.

44. Ibid., §159.

45. Ibid., §151. The emphasis is original.

46. Ibid., §25. The emphasis is mine.

47. Ibid., §154.

48. Green, "Lecture On Liberal Legislation And Freedom Of Contract" in Works III, §366.

49. Ibid., §370.

50. It should be kept in mind that neither Hobbes nor Locke understood liberty or freedom in this manner. When Hobbes writes in chapter 14 of the Leviathan that liberty is the "...absence of externall Impediments..." it is often neglected that he adds shortly afterward "...which Impediments, may oft take away part of a mans power to do what he would; but cannot hinder him from using the power left him, according as his judgement, and reason shall dictate him." Reason in this instance dictates general rules to be followed called the laws of nature. In chapter 2 of the Second Treatise, Locke defines freedom as a power of individuals "...to order their Actions, and dispose of their Possessions, and Persons as they think fit, **within the bounds of the Law of Nature**, without asking leave, or depending on the will of any other man." Whatever may be said of these doctrines, it simply cannot be casually assumed that liberty is equivalent to doing what one desires.

51. Green, "On The Different Senses Of 'Freedom' As Applied To Will And To The Moral Progress Of Man," Works II, §8.

52. Green, "Lecture On Liberal Legislation," §371.

53. Ibid.

54. Freedom is a

> ...state of the man who lives indeed for himself, but for the fulfilment of himself as a "giver of law universal" (Kant); who lives for himself, but only according to the true idea of himself, according to the law of his being "according to nature" (the Stoics); who is so taken up into God, to whom God so gives the spirit, that there is no constraint in his obedience to the divine will (St. Paul); whose interests, as a loyal citizen, are those of a well-ordered state in which practical reason expresses itself (Hegel). Now none of these

> modes of self-determination is at all implied in "freedom" according to the primary meaning of the term, as expressing that relation between one man and others in which he is secured from compulsion.

Cf. Green, "On The Different Senses Of Freedom", §7.

55. Green, "Liberal Legislation," §372.

56. Berlin, "Two Concepts Of Liberty," pp.162-163.

57. Green, Prolegomena, §245.

58. Ibid.

59. According to Richter, "[i]n abandoning the older view so long held by liberals, Green gave up a concept which, whatever its other difficulties, was still an effective weapon against dictators and all others who would destroy liberty in the name of some allegedly higher principle called positive freedom or self-realisation." Cf. his The Politics Of Conscience, p.203.

60. Green, Lectures, §194.

61. Ibid., §139.

62. Consider the parallels between Green and Kant on freedom. Kant explains that individual freedom or liberty

> ...as a principle for the constitution of a commonwealth, can be expressed in the following formula. No-one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law--i.e. he must accord to others the same right he enjoys himself.

Cf. "On The Common Saying: 'This May be True in Theory, but it does not Apply in Practice,'" Kant's Political Writings, H.B. Nisbet (trans.), (Cambridge: Cambridge University Press, 1970), p.74.

63. Ibid.

64. Ibid., §101.

65. Ibid., §145.

66. Ibid., §141.

67. Ibid., §103.

68. Ibid., §31.

69. Ibid., §216.

70. Ibid.

71. Ibid., §194.

72. Ibid., §24.

73. Ibid., §135.

74. Ibid., §208.

75. Ibid.

76. Ibid., §132.

77. Ibid.

78. Ibid., §96.

79. For a better understanding of the conduct expected from political representatives by a liberal regime, cf. Donald J. Devine, "John Locke: His Harmony Between Liberty And Virtue," Modern Age Vol.22 (1978), pp.246-256 and Willmoore Kendall, John Locke And The Doctrine of Majority Rule (Urbana: University of Illinois Press, 1959).

80. Green, Prolegomena, §354.

Conclusion:

The Liberal Politics of T.H. Green

This dissertation has sought to interpret Green as a thinker deeply committed to human freedom and a sympathetic critic of liberalism. His place in the liberal tradition is secure. I wish to establish his place as a novel thinker who revised liberal political philosophy. Here Green made two principal contributions. He was the first liberal political philosopher to recognize and to address the ramifications of distinguishing different conceptions of liberty. And Green's infusion of virtues and goods into the liberal framework represents another important development in the liberal tradition. A deeply-rooted conviction of liberalism is that political stability presupposes a moral community of individuals who cooperate in the pursuit of common objectives. Liberals traditionally promoted neither altruism nor self-interest but rather civic virtues, and in particular the civic virtues entailed by individuals cognizant of their obligations within the body politic. Such a sentiment is almost the heart of Green's message.

While devotion to others certainly is a keystone of his conception of politics, nowhere does Green insist that we act altruistically or utilize state authority to coerce individuals to act in such a manner. As Green reminds us, a liberal way of life purposively expands notions of individual initiative and responsibility because self-imposed obligations are simply better than those other-imposed. The liberal regime will accept the legitimacy of this way of life--of the ideal of self-government--on the condition that individuals consciously and willingly undertake individual initiative and accept responsibility. If citizens of liberal regimes fail to harmonize the differences that arise out of the satisfaction of needs, interests, and desires, then the liberal regime no longer possesses the associational ties that constitute liberal political unity.

Green's contribution to liberal political theory then was his insistence that liberal citizens retain their interest in common objectives and occasionally sacrifice particular interests for the sake of more enduring individual lifeplans and common interests. This was Locke's message, but one partially concealed by his evocation of natural law and right within a tradition that spoke a language of natural powers. Liberalism relies on critical reflection upon the conduct of others and the effects of political institutions and policies. Obscured here though is the reliance Green and other liberals place upon self-criticism. Green also inherited Locke's passionate belief that there is something inherently anti-social about individuals or groups concerned exclusively with their own interests since such behaviour weakens civic trust and abandons the ideal of liberty. For Green, the laws, customs, and institutions of any social order will always be morally incomplete, for the realisation of perfection (or better yet, "excellence") can only occur in individuals within a social order. Accordingly what revisions Green made in liberal political philosophy essentially amounted to drawing out the implications of his predecessors' priority of stability and security as important elements--indeed values--of a liberal society. Green's analysis of the common good, for example, was animated by a belief that his liberal predecessors were overly-concerned with limiting state power, but nowhere does he consider the exercise a mistake.

One of Green's objectives was to transform liberalism from a social philosophy of individual and class interest into one which instead could claim to take account of all important interests from the point of view of the liberal national community. How did he accomplish this? He began by reminding liberal theorists that any credible liberal philosophy must have a broad and compelling account of human agency and individuality, one that affirms the worthiness of individuals without sacrificing constitutive and associative ties. It is a difficult task in the best of times to form a consensus on ideas, values, and objectives, but it is an impossible task when human interests, needs, and desires are presumed to be impulses and appetites. As Green demonstrates, a theory of individuality based upon such an assumption is one in which no ties--neither affective nor cognitive--could possibly be formed. All too often liberal theorists imply that constitutive ties are the product of affective faculties, and yet such an analogy at best is merely metaphorical such as "I share my feelings with most on the matter." In other words, the "uncertain self" of the liberal tradition cannot really be a social self in the requisite sense necessary for a compelling political philosophy.

As a result we defended the integrated liberal self Green found to be presumed but not explicated in the liberal tradition. This revised liberal self is directed toward a common, moral good. The self-conscious, willing, and rational self (rational because capable of self-imposed recognition and subjection to rules) that constitutes the foundation of liberal philosophy does indeed have objects common with others. These objects pursued are not internalized feelings somehow socially writ large but are rather conceptions embodied in a common language, symbols, and traditions. Green argued that a true good, one that excites in individuals a strong interest and possesses permanence, is a well-being that can only be identified with an order of life. Here too, though, individual lives are invested with value in virtue of their capabilities and are not estimated strictly with reference to the purposes of a society. In fact, one of the most notable of Green's contributions is that a society founded on the self-subordination of each individual to the rational claims of others could not come into existence except through a desire for an object common to all.

This insight into common, moral goods was the animating force of Green's critique of traditional liberal political theories. Liberal theorists had in fact presupposed a particular account of the good life, and their theories had a kind of internal logic which indicated a more expansive conception of liberal politics--of liberties, virtues, and rights--than was recognized. Green's critique of the natural right tradition so closely allied to liberalism was this: explaining how natural desires for power transform themselves into social ideals for peace and harmony (as with Descartes); providing limits to the power and authority of the sovereign over individuals (as with Hobbes); and explaining what legitimates a sovereign act (as with Locke and Rousseau). Green's critique brought forth two liberal principles from which to criticize law: (1) that nothing but external acts can be a matter of obligation, and (2) more importantly that what the sovereign determines is an obligation ultimately must be stated in terms of the moral end of law.

Finally, we explored Green's conception of individual rights and found that some categories of rights require either emergent or prospective justification. Rights and liberties are not mere powers, but powers exercised toward an end or objective, and to receive political recognition this end or objective must be one that is in principle consonant with social good and can reasonably be held by any other person. Green's common good criterion is in a manner like the social contract in that it aids in the determination of political and non-political claims. Green's purpose then was not to replace liberty, equality, rights, and power as liberal political concepts. Liberal regimes cannot be static; they must adapt to changes and attempt to harmonize emerging liberty-claims, and the use of the social contract makes such an exercise difficult, if not impossible. Green never lost sight of the value of civil or political liberty, the right of individuals to pursue their own lives according to their own views all the while protected and respected by the state of which they are members. Liberty then is both an essential and necessary condition of the development of individual personality and character consistent with the values of independence, tolerance, and curiosity. Green reminds citizens that individual needs, interests, and desires must be given public expression and justification, but he accomplishes this without undermining the distinction between the private and the political.

Liberal theory has been under siege for the greater part of two decades. Yet those who besiege the tradition have done little to offer in its place a vision of politics to match the achievements of liberal politics. Communitarians have failed to elaborate a meaningful philosophy of politics in order to distinguish the communitarian from the liberal vision.[1] Much more work is required to clarify the meaning of "community" as a political concept[2] and to provide shape to a "formless view of the political realm."[3] Recent attempts by William Sullivan, for example, to reconstruct public philosophy through republican principles is of dubious merit when all that is said substantively is that liberal societies are in need of intermediating social groups between individuals and the state.[4] And it is disconcerting that ancient Athens is considered by Cynthia Farrar to be a model for alleviating contemporary liberal angst while it remains a largely unresolved issue whether the restricted nature of citizenship and thus participation in Athenian political life was not a necessary feature of ancient Greek visions of politics.[5] Liberals, however, do need to return to their traditional concepts such as power, liberty, and right, and by considering the moral and political thought of Green, they will become familiarized with the direction liberal theorists must go with these concepts.

Endnotes

1. Rosenblum, "Pluralism and Self-Defence," Liberalism And The Moral Life, p.215.

2. Mason, "Liberalism and the Value of Community," p.215.

3. Wallach, "Liberals, Communitarians, And The Tasks Of Political Theory," pp.590-591.

4. Cf. Sullivan, Reconstructing Public Philosophy.

5. Cf. Farrar, The Origins of Democratic Thinking.

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